REPORTS

OF

Cases Argued and Determined

IN THE

# COURT of CLAIMS

OF THE

STATE OF ILLINOIS

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VOLUME 45

Containing cases in which opinions were filed and orders of dismissal entered, without opinion for: Fiscal Year 1993—July 1, 1992-June 30, 1993

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SPRINGFIELD, ILLINOIS
1994

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# PREFACE

The opinions of the Court of Claims reported herein are published by authority of the provisions of Section 18 of the Court of Claims Act, *705* ILCS 505/1 ***et seq.***, formerly Ill. Rev. Stat. 1991, ch. ***37,*** par. **439.1*et seq.***

The Court of Claims has exclusive jurisdiction to hear and determine the following matters: (a) all claims against the State of Illinois founded upon any law of the State, or upon any regulation thereunder by an executive or administrative officer or agency, other than claims arising under the Workers' Compensation Act or the Workers' Occupational Diseases Act, or claims for certain expenses in civil litigation, (b) all claims against the State founded upon any contract entered into with the State, (c) all claims against the State for time unjustly served in prisons of this State where the persons imprisoned shall receive a pardon from the Governor stating that such pardon is issued on the grounds of innocence of the crime for which they were imprisoned, (d) all claims against the State in cases sounding in tort, (e) all claims for recoupment made by the State against any Claimant, (f) certain claims to compel replacement of a lost or destroyed State warrant, (g) certain claims based on torts by escaped inmates of State institutions, (h) certain representation and indemnification cases, (i) all claims pursuant to the Law Enforcement Officers, Civil Defense Workers, Civil Air Patrol Members, Paramedics, Firemen & State Employees Compensation Act, (j) all claims pursuant to the Illinois National Guardsman's Compensation Act, and (k) all claims pursuant to the Crime Victims Compensation Act.

A large number of claims contained in this volume have not been reported in full due to quantity and general similarity of content. These claims have been listed according to the type of claim or disposition. The categories they fall within include: claims in which orders of awards or orders of dismissal were entered without opinions, claims based on lapsed appropriations, certain State employees' back salary claims, prisoners and inmates-missing property claims, claims in which orders and opinions of denial were entered without opinions, refund cases, medical vendor claims, Law Enforcement Officers, Civil Defense Workers, Civil Air Patrol Members, Paramedics, Firemen & State Employees Compensation Act claims and certain claims based on the Crime Victims Compensation Act. However, any claim which is of the nature of any of the above categories, but which also may have value as precedent, has been reported in full.

# OFFICERS OF THE COURT

ROGER A. SOMMER
Morton, Illinois
Chief Justice - January 15, 1993—
Judge - February 26, 1987—January 15, 1993

JAMES S. MONTANA, JR.
Chicago, Illinois
Chief Justice - March 5, 1985—December 31, 1992
Judge - November 1, 1983—March 5, 1985

LEO F. POCH, Judge
Chicago, Illinois
June 22, 1977—

RANDY PATCHETT, Judge
Marion, Illinois
March 26, 1985—

ANNE M. BURKE, Judge
Chicago, Illinois
March 6, 1987—

NORMA F. JANN, Judge
Chicago, Illinois
May 1, 1991—

ROBERT FREDERICK, Judge
Urbana, Illinois
June 1, 1992—

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GEORGE H. RYAN
Secretary of State and *Ex Officio* Clerk of the Court
January 14, 1991—

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CHLOANNE GREATHOUSE
Deputy Clerk and Director
Springfield, Illinois
January 1, 1984—

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CASES ARGUED AND DETERMINED
IN THE COURT OF CLAIMS
OF THE STATE OF ILLINOIS

REPORTED OPINIONS

FISCAL YEAR 1993

(July 1, 1992 through June 30, 1993)

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(No. 80-CC-0056—Claim denied.)

**JOHN HAGENSICK,** Administrator of the Estate of JAY C. **HAGENSICK,** Deceased, Claimant, *v.* **THE STATE OF ILLINOIS,** Respondent.

*Order filed July* **14, 1992.**

RICHARD T. SIKES, for Claimant.

ROLAND W. BURRIS, Attorney General (JANICE SCHAFFRICK, Assistant Attorney General, of counsel), for Respondent.

NEGLIGENCE—*snowmobiles—safety of premises—immunity from liability.* Pursuant to section 605—1(I) of the Snowmobile Act, an owner, lessee or occupant of premises owes no duty to keep the premises safe for entry or use by others for snowmobiling, or to warn of unsafe conditions, and although this subsection does not generally apply where permission to snowmobile is given for a valuable consideration, it remains applicable to the State or any political subdivision thereof, or to any landowner who is paid with funds from the Snowmobile Trail Establishment Fund.

SAME—*snowmobile driver killed after striking fence—State was immune from liability as occupant of premises under Snowmobile Act—claim*

***denied.*** A claim filed by the estate of a man who was killed when the snowmobile he was driving on county forest preserve property struck a snow fence which had been erected by the State with the county's permission was denied, since the State's status as a licensee of the premises at the time of the accident did not prevent it from also being an occupant thereof covered by section 605—1(I) of the Snowmobile Act, which immunized the State from liability.

## ORDER

MONTANA, C.J.

This cause is before the Court on Respondent's motion for summary judgment, Claimant's answer to motion for summary judgment, and Respondent's reply in support of its motion for summary judgment.

Claimant's complaint in the Court of Claims incorporates by reference a complaint filed in the Circuit Court of Cook County in case No. 79 L **14226** concerning the events leading to this suit. In said complaint Claimant alleges in relevant part as follows:

"John **R.** Hagensick, Administrator of the Estate of Jay C. Hagensick, deceased, complains of the defendants, the Forest Preserve District of Cook County, a Municipal Corporation, Cook County, Illinois, a Body Politic, and the State of Illinois, and states:

**1.** That plaintiff is the duly qualified and acting Administrator of the Estate of Jay Charles Hagensick, deceased, having been so appointed by the Circuit Court of Cook County on December 18,1978.

2. The Forest Preserve District of Cook County is a Municipal Corporation organized and existing under the laws of the State of Illinois.

**3.** At all times relevant, defendants, the Forest Preserve District of Cook County, Cook County and the State of Illinois owned, operated, and controlled a certain so-called forest preserve in Cook County, Illinois, located at 107th Street and La Grange Road, including a certain snowmobile path and highway snow fences in connection therewith.

**4.** That prior to January 28, 1978, defendants, and each of them, had erected a crossbar structure in connection with the erection and maintenance of a snow fence, at the aforesaid location.

**5.** That it was the duty of the defendants and of each of them to erect and maintain said snow fence in such a manner as not to interfere with the lawful use of said forest preserve.

6. That on or about January 28, 1978, plaintiff's intestate, Jay Charles

Hagensick, while lawfully using the aforesaid forest preserve snowmobile area on his snowmobile, came in contact with an iron crossbar structure as aforesaid which caused plaintiff's intestate to be thrown violently from his snowmobile and resulted in his death.

7. That notwithstanding the duty of each defendant to maintain and erect structures so as not to interfere with the lawful use of said forest preserve, each defendant violated its duty to lawful uses thereof, and in particular to plaintiff's intestate, in one or more of the following respects:

a) Maintained a so-called snowmobiling area in a place where an artificial structure had been placed so as to institute a hazard to snowmobilers.

b) Placed a crossbar device in an area that had been designed as a snowmobiling area with [sic] due regard for the use intended for such location.

c) Failed to adequately warn snowmobilers of the hazard created by the placing of a crossbar device.

d) Erected a crossbar device in an area intended for use by snowmobilers when it knew or should have known that the placing of such device constituted a hazard to the use for which the area was intended.

8. That as a proximate result of one or more of the foregoing breaches of duty owed by defendants, and by each of them, to plaintiff's intestate, plaintiffs intestate suffered an accident and his death as aforesaid."

A previous motion to dismiss filed by Respondent indicated that in the action against the Forest Preserve of Cook County (Forest Preserve), the Forest Preserve was found by the circuit court to owe no duty to Claimant's decedent to keep the premises safe for snowmobiling or to give a warning of any unsafe condition. Respondent asserted in its motion to dismiss that the claim against Respondent should be dismissed based on sections of the Illinois Snowmobile Registration and Safety Act (Snowmobile Act), Ill. Rev. Stat. 1983, ch. 95½, pars. 605—1(I), (J).

Those sections stated:

"I. An owner, lessee, or occupant of premises owes no duty to keep the premises safe for entry or use by others for snowmobiling, or to give warning of any unsafe condition or use of or structure or activity on such premises. This subsection does not apply where permission to snowmobile is given for a valuable consideration other than to this State, any political subdivision or municipality thereof, or any landowner who is paid with funds from the Snowmobile Trail Establishment Fund."

"J. An owner, lessee or occupant of premises who gives permission to another to snowmobile upon such premises does not thereby extend any assurance that the premises are **safe** for such purpose, or assume responsibility for or incur liability for any injury to person or property caused by any act of persons to whom the permission is granted. This subsection shall not apply where permission to snowmobile is given for a valuable consideration other than to this State, any political subdivision or municipality thereof, or any landowner who is paid with funds from the Snowmobile Trail Establishment Fund."

Respondent's position was that, based on these sections, the claim against Respondent should be dismissed because Respondent erected the snow fence on the Forest Preserve's property with the Forest Preserve's permission. Therefore the immunity applicable to the Forest Preserve should also extend to the Respondent. Respondent further noted that the Illinois Supreme Court had upheld the constitutionality of the Snowmobile Act in ***Ostergren v. Forest Preserve District*** (1984), **104** Ill. 2d **128,471** N.E.2d **191.**

Claimant's answer to the motion to dismiss asserted the State of Illinois had not shown it was an owner, lessee or occupant of the premises upon which the occurrence took place nor did the State of Illinois give permission to Claimant's intestate to snowmobile. Said answer further asserted the State of Illinois had not brought itself within the ambit of the statute and had shown no authority why this immunity statute should **also** extend to it.

The Court determined Respondent had shown no authority why the statute should extend to the State. The motion to dismiss was therefore denied.

The claim is now before the Court on a motion for summary judgment filed by Respondent. Respondent states on page **2** of the motion:

"The respondent erected the snow fence to prevent blowing snow from entering on Illinois Route **45** during periods of inclement weather. (See Exhibit A, Affidavit of Edward K. Kolton which is attached hereto.) The

Cook County Forest Preserve District (hereinafter 'Forest Preserve') gave oral permission for respondent to go upon its land to erect the snow fence in question. (See Exhibit C, Affidavit of Arthur **L.** Janura and is attached hereto.)"

The Court notes that an Exhibit C was not attached to the motion. The affidavit of Arthur L. Janura was labeled Exhibit B.

Respondent again asserts in the motion that the State is immune from liability under the Snowmobile Act. On page *3* of the motion Respondent states:

"In the instant case, the Cook County Forest Preserve granted verbal permission for respondent to erect the snow fence in question upon its property. By doing **so,** the Forest Preserve gave respondent a license to go upon its property. A license in respect to red property is permission to do an act or a series of acts upon the land of another without possessing any estate or interest in such land. *Mueller v. Keller*, **18** Ill. 2d **334,** 164 NE2d *28* (1960). As such, respondent was occupying the Forest Preserve's premises as **a** licensee. Thus, respondent falls within the ambit of section 605-1(I) as an 'occupant of the premises' and owes no duty to claimant to keep the portion of its premises safe for the purpose of snowmobiling."

Respondent further argues in the motion that public policy requires that Respondent fall within the ambit of the Snowmobile Act. On page **4** of the motion Respondent states:

"In the instant situation, respondent had a duty to maintain its roadways in a reasonable condition for the traveling motorists. The purpose of erecting the snow fence in question was to prevent drifting snow from accumulating into a hazardous condition on the travelled portion of Route 45. (See Exhibit A). It **is** a matter of public policy for respondent to promote public safety for vehicular traffic. Clearly, the safety of the travelling public on state roadways outweighs the need to remove the snow fence in question in order to make the forest preserve free from all defects that could upset a speeding snowmobile."

In the answer to motion for summary judgment Claimant argues that Respondent was not an occupant of the premises within the meaning of section 605—1(I) of the Snowmobile Act. Claimant submits that the State in this claim is a licensee, a temporary user of property removable at the will of the licensor, and as such is not entitled

to be deemed an occupant covered by the Snowmobile Act. In support of this position Claimant cites *Pioneer Irrigation District v. Smith* (Idaho Sup. Ct. 1930), 285 P. 474; *Labree* v. *Millville Mfg. Inc.*, (Sup. Ct. App. Div. 1984), 195 N.S. Super 575, 481 A.2d 286; and *Drake* v. *Ogden* (1989), 128 Ill. 603.

In Respondent's reply in support of its motion for summary judgment, Respondent cites the cases of *Bishop v. Stewart* (Miss. Sup. Ct. 1958), 106 So.2d 899 and *McGee v. Charles E Smith & Sons Inc.* (Miss. Sup. Ct. 1978), 357 So.2d 930.

This Court agrees with both parties that the State's position in this claim was that of a licensee. The issue that must be resolved is whether as a licensee, the State was also an occupant of the premises and thus covered by the Snowmobile Act. The Court has reviewed the cases cited by both parties and not found them to be persuasive in resolving this claim because the situations presented within them are dissimilar to that presented in the claim at bar. However, a case which does present a situation similar to the claim at bar is *Smith v. Sno Eagles Snowmobile Club, Inc.* (E.D. Wis. 1985), 625 F. Supp. 1579.

In *Smith,* plaintiff, Marlene Smith, was injured when the snowmobile she was driving on a snowmobile trail in Eagle River, Wisconsin, collided with an automobile at a point where the snowmobile trail intersected with a driveway. The snowmobile trail was located on land which included stretches that were privately as well as governmentally owned. The United States Forest Service owned the section of trail where the accident occurred.

The snowmobile trail was planned and constructed by Sno Eagles Club, Inc. (Sno Eagles), and groomed by Headwater Trails, Inc. (Headwater). Both organizations

were voluntary and nonprofit. Sno Eagles would gain permission from landowners to construct snowmobile trails across their property and then do whatever was physically necessary to create the trails on the property, After a trail was constructed signs were erected by Sno Eagles. Once the trail was completed and the signs were in place, Headwater personnel would groom the trail. While grooming the trails, Headwater personnel would carry signs to replace signs they found missing. On the date of the accident, Mrs. Smith was snowmobiling along what was called the **2** East Trail. The **2** East Trail was drawn on a trail map, but was not marked by signs.

Mrs. Smith and her husband filed a lawsuit based on diversity in the United States District Court for the Eastern District of Wisconsin against the automobile driver, Michelle Hafer, as well as Sno Eagles and Headwater, and their respective insurers. Michelle Hafer sought contribution from Sno Eagles and Headwater. The Smiths alleged that Sno Eagles and Headwater were negligent in the maintenance of the trail and in failing to mark the site of the driveway. Since Sno Eagles and Headwater asserted the trail had not been opened as of the time of the accident, the Smiths argued that they were negligent in not marking the trail to indicate it was not yet open.

Sno Eagles and Headwater moved for summary judgment claiming they were exempt from liability by the Wisconsin Recreational Use Statute, Wis. Stat. sec. 29.68, in effect at the time of the accident. That section as cited at 625 F. Supp. 1592 provided:

"(1) * * * An owner, lessee, or occupant of premises owes no duty to keep the premises safe for entry or use by others for hunting * * * snowmobiling * * * or recreational purposes, or to give warning of any unsafe condition or use of or structure or activity on such premises to persons entering for such purpose except as provided in subdivision **3.**"

Subdivision *3* states:

"This section does not limit the liability which would otherwise exist for willful or malicious failure to guard or to warn against a dangerous condition * * *"

The trial judge determined that for Sno Eagles and Headwater to be covered by section 29.68 they had to be within the definition of occupant. However, the term occupant was not defined by section 29.68. The trial judge stated at 625 F. Supp. 1582:

"I have examined several definitions of the noun occupant. Blacks Law Dictionary defines occupant as:

> 'Person having possessory rights, who can control what goes on on premises. One who **has** actual use, possession or control of a thing.'

Webster's Third New International Dictionary 1560 (G. & C. Merriam Co. 1976) provides a more varied menu of meanings for occupant:

> **'a:** one who takes first possession of something that has no owner and thereby acquires title by occupancy b: one who takes possession under title, lease or tenancy at will 2a: one who occupies a particular place or premises * * * b: one who holds **a** particular post * * * 3: one who **has** actual use or possession of something * * *.'

The definition of the verb 'to occupy' lends additional meaning to the noun occupant. One of the meanings of the verb 'to occupy' is 'actual use, possession, and cultivation.' Blacks Law Dictionary. Occupy and occupant include persons who, while not owners or tenants, have the actual use of land.

When construing statutes, courts must attempt to give meaning to every term used by the Legislature. **County** *of* ***Columbia v.*** *Bylewski,* 94 Wis.2d 153, **164,** 288 N.W.2d 129 (1980). The primary purpose of statutory construction is to determine the intent of the Legislature and to give meaning to that intent. *Id.* While 'occupant' includes definitions of owner and lessee, it also means one who has the actual use of property without legal title, dominion or tenancy. In order to give meaning to 'occupant', the term should be interpreted to encompass **a** resident of land who is more transient than either a lessee or an owner. Plaintiffs argue that 'occupant' connotes exclusive use. This construction, however, would render the term 'occupant' virtually meaningless, since exclusive possessors and users are usually owners or tenants."

The Smiths and Michelle Hafer argued that Sno Eagles and Headwater were licensees and since licensees were not named in section 29.68, Sno Eagles and Headwater were not exempt from liability. In response to this argument the trial judge stated at 625 F. Supp. 1592-93:

"I agree that Sno Eagles and Headwater may be characterized as licensees; however, this status does not prevent them from also being classified as occupants. Sno Eagles and Headwater occupied the land to the extent of constructing and grooming snowmobile trails. Excluding these defendants from the purview of $29.68 would thwart the statute's purpose.

In enacting $29.68, the Wisconsin Legislature intended to limit the liability of landowners, lessees, and 'occupants' who opened their land to the public without receiving valuable consideration in return. See *Goodson v. Racine,* 61 Wis.2d 554, 559, 213 N.W.2d 16 (1973). The Wisconsin Legislature's intention would not be furthered by excluding non-profit organizations such as Sno Eagles and Headwater from the purview of $29.68. Moreover, to limit the definition of 'occupant' to an exclusive user, an owner, or a lessee, would render the term redundant. I therefore hold that non-profit organizations such as Sno Eagles and Headwater which enter land for a limited purpose, are occupants within the meaning of $29.68, and that their liability is limited by that statutory section."

The Smiths appealed the district court's decision alleging in part that the district court improperly found Sno Eagles and Headwater to be occupants of 2 East Trail and therefore entitled to immunity under Wis. Stat. sec. 29.68. The United States Court of Appeals, Seventh Circuit, affirmed the district court's decision in *Smith v. Sno Eagles Snowmobile Club, Inc.* (7th Cir. 1987), 823 F. 2d 1193.

In the claim at bar, the State of Illinois is in a position similar to that of Sno Eagles and Headwater in *Smith.* At the time of the decedent's accident, its status with respect to a portion of land the snow fence was upon was that of a licensee. The section of the Snowmobile Act relied upon by the State in the claim at bar as exempting it from liability is similar to the statute relied upon by Sno Eagles and Headwater in *Smith.* Each exempts from liability an owner, lessee or occupant of premises without defining those terms. The State in the claim at bar is in the same position as Sno Eagles and Headwater in *Smith* in that, as a licensee, it also must be deemed an occupant within the ambit of the Snowmobile Act to be exempt from liability.

The reasoning of the trial judge in *Smith* in determining that Sno Eagles and Headwater, as licensees, were also occupants entitled to immunity under Wis. Stat. sec. 29.68 is persuasive and applicable in resolving this claim. Based upon it, we find that at the time of the decedent's accident, the State was an occupant of the Forest Preserve of Cook County within the ambit of section 605—1(I) of the Snowmobile Act and therefore owed no duty to keep the portion of the premises it occupied safe for entry or use by others for snowmobiling, or to give warning of any unsafe condition or use of or structure or activity of such premise. The State's status as a licensee did not prevent it from also being an occupant covered by section 605—1(I).

Since we have found the State in this claim to have been covered by section 605—1(I), we do not find it necessary to address the public policy argument presented in Respondent's motion for summary judgment.

Based on the foregoing, it is hereby ordered that Respondent's motion for summary judgment be, and hereby is, granted and that this claim accordingly be denied.

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(No. 81-CC-0188—Claim denied.)

RICHARD L. GAISER, Claimant, *v.* THE STATE OF ILLINOIS, Hespondent.

*Orderfiled September 10, 1990.*
*Order filed May 13, 1993.*

SPECTOR & LENZ, for Claimant.

ROLAND W. BURRIS, Attorney General (PAUL M. SENCPIEHL, Assistant Attorney General, of counsel), for Respondent.

*HOSPITALS AND INSTITUTIONS—mental facility—duty owed to patient.* The State, by the Department of Mental Health, owes its patients the duty of protection and must exercise such reasonable care toward the patients as the patient's known condition may require, including safeguarding a patient from dangers due to mental incapacities which are known or by the exercise of reasonable care ought to be known, but the State is not an insurer of the safety of its patients.

*SAME—patient escape—what Claimant must prove to hold hospital liable.* In order to hold a State hospital or institution liable for the escape of a patient, the Claimant must prove that a lack of proper and reasonable care existed, that the State failed to exercise due care and failed to prevent an escape which it could reasonably have been expected to predict, and that the injuries suffered were the proximate result of the State's breach of duty.

*SAME—negligence—Stcite was not liable for self-inflicted injuries to patient attempting escape—claim denied.* Where the Claimant sought recovery for injuries he inflicted upon himself when he was allowed to leave a State mental facility, the State was not liable for breaching its duty of proper and reasonable care since, although the Claimant had a history of attempted escape and self-threatening behavior, he exhibited exemplary behavior and grooming at the time he gained his release by showing a hospital employee what appeared to be an appropriate grounds pass.

ORDER

**DILLARD, J.**

Introduction:

This cause comes on to be heard upon the claim of Richard Gaiser bringing an action in tort against the State of Illinois, Department of Mental Health and Development Disabilities. Claimant alleges that the Respondent was negligent and that it violated the duty to exercise reasonable care for the safety and welfare of its patients and duty to exercise reasonable care to prevent an individual within the custody of the Respondent from inflicting injury upon himself.

Six pretrial conferences were held in this matter during which discovery was completed. A hearing was

held in this matter consisting of five sessions from October 21,1982, through November 17,1982.

Facts:

The Claimant, Richard Gaiser, was born on July 28, 1950. On July 17, 1978, Claimant was voluntarily admitted to Tinley Park Mental Health Center. The Claimant was admitted and was diagnosed as mentally retarded with psychosis symptoms. Tinley Park Mental Health Center is a minimum security institution. The purpose of Tinley Park Mental Health Center is to return the patient to society as a functional member of the community.

From July 17, 1978, through August 19, 1978, the Claimant was placed in restraints on eight occasions. The Claimant's father informed Respondent's staff that Claimant was engaging in head banging, running into walls, moaning and engaging in threatening gestures. Upon admission, the preliminary diagnosis indicated that the Claimant was potentially dangerous to himself. On August 9, 1978, the Claimant, while in restraints, managed to free his hand and lacerate his left eye and tear duct. From August 16 through August 18, 1978, Claimant's behavior was uneventful and he was never placed in restraints during that period.

It was common practice to observe a patient for three days after admission and to permit the patient a grounds pass if no behavioral problems were exhibited. The grounds passes were kept at a nursing station in a box. Claimant requested a pass from Dr. Soo Ja Song on August 18, which was refused because it was her personal policy not to issue grounds passes on Fridays.

On the morning of August 19, 1978, Ms. Thompson, an employee of the Respondent, did allow the

Claimant off the male unit. The testimony of Ms. Thompson was that the Claimant exhibited an orange pass which was the appropriate color for temporary release from the facility and further that the Claimant exhibited exemplary behavior, grooming, and dress. The testimony of the Claimant varied between not remembering whether he did or did not exhibit a grounds pass, to identifying that he did show a pass to her.

Respondent indicates in its statement of facts that the employee had no knowledge that the Claimant was attempting an escape, that he was not to be let off the ward, or that he was not to leave the floor. Subsequently, the Claimant was discovered by Tinley Park Mental Health Center security in a ditch at the border of the grounds. He had engaged in behavior that resulted in the gouging of his right eye. Claimant was brought to South Suburban and Billings Hospital for treatment.

At Billings Hospital the Claimant's right eye was surgically removed and extensive lacerations to the upper and lower lids of each eye were treated. On April **2,** 1979, the Claimant was given absolute discharge from the Respondent's mental health system. From that date to the date of hearing, Claimant has found a course of assimilation into the community. Claimant has an apartment, friends, and appears to be adjusting well.

Law:

The Court has held that a hospital is not an insurer of a patient's safety, but owes a patient the duty of protection and must exercise such reasonable care as the patient's known condition may require. (*Todd v.*

*State* (1983), 32 Ill. Ct. Cl. 647.) The Court further developed a standard of care in *Reynolds v. State* (1983), 35 Ill. Ct. Cl. 647.

In *Reynolds*, a claim was brought against the State of Illinois alleging that the respondent was negligent in failing to observe, guard, or care for the claimant. The evidence showed that the claimant was admitted to a minimum security unit on July 3, 1976, after the examining physician diagnosed acute psychotic episode. In the course of the next 34 hours the claimant attempted to escape on several occasions and finally escaped on July 4, 1976. On the morning of July 6, 1976, the claimant jumped in the Chicago River and drowned. This Court denied the claim. In Reynolds, *supra*, at 49, the Court stated:

"The burden of proof is on the claimant to warrant the imposition of liability and negligence against the hospital. The State, by the Department of Mental Health, owes its patients the duty of protection and must exercise reasonable care toward the patients as the patient's known condition may require, including safeguarding of a patient from dangers due to mental incapacity when such mental incapacities are known or by the exercise of reasonable care ought be known. The State is not, however, an insurer of the safety of the patients under the care of its Department of Mental Health."

Thus, the claimant has the burden of showing that the respondent failed to exercise reasonable care for the patient given his known condition. The claimant in *Reynolds* did not meet its burden.

The *instant* case also has the factual element of escape, which has been addressed by this Court in *Calvin v. State* (1982), 35 Ill. Ct. Cl. 611. This Court has held that before recovery can be made in such cases, claimant must prove that a lack of proper and reasonable care existed. It is then the claimant's burden to prove that the respondent failed to exercise due

care and failed to prevent escape where it could have reasonably been expected to predict the escape. The respondent cannot be held liable unless it knew or should have reasonably been expected to know of, or predict, a patient's sudden escape. Furthermore, the claimant must demonstrate that the injuries suffered were the proximate result of the breach of the duty by respondent.

In *Calvin v. State* (1982), *35* Ill. Ct. Cl. 611, this Court denied a claim of a claimant who was admitted to Tinley Park Mental Health Center in 1975. At the time the claimant entered the Tinley Park Mental Health Center, he could not leave without permission or a pass, and the doors to his unit were opened and closed with a key which was in the hands of authorized personnel. The claimant asked permission to leave the area but was refused. Upon observing an attendant of the hospital leaving, he ran through the door and exited the facility. Approximately 25 minutes after he escaped from the facility he was discovered dead on nearby railroad tracks.

In *Calvin,* the claimant alleged that the respondent failed to provide proper care, supervised patrol, or properly trained security guards, thereby breaching its duty of care towards the claimant. Unlike the instant case, in the *Calvin* matter, the parties presented testimony of several physicians and psychiatrists with regard to the suitability of the care rendered and security precautions taken. The Court denied the claim, holding that the respondent was not liable because it could not have known nor predicted the claimant's escape.

The instant action presents several similar factual patterns to *Reynolds* and *Calvin.* Here, the Claimant

was admitted to a minimum security unit, received care for the diagnosed symptomatology and exhibited erratic and sometimes self-threatening behavior, attempted escape and proceeded in doing harm to himself. Similarly, as in *Calvin* and *Reynolds,* the Claimant has not shown that the action taken by the Respondent through its employees violated any standards of care as were applied to the Respondent at the time in question. The Claimant never called any expert witnesses in the area of psychiatric treatment of the Claimant's disorders; Claimant never presented evidence with regard to the adequacy or size of the personnel on duty or with regard to the security at the Tinley Park Mental Health Center.

Conclusion:

Claimant solely relies on the fact that the Claimant was able to leave the unit on August 19, 1978, in spite of a denial of a pass by Dr. Soo Ja Song on August 18, 1978, and that the Claimant injured himself. Claimant suggests that his own erratic behavior in the *33* days prior to August 19, 1978, should have precluded Respondent's employee, Ms. Thompson, from releasing Claimant with what appeared to be an appropriate grounds pass on August 19, 1978.

It is regrettable that the Claimant suffered such a tragic, painful and permanent injury. However, the severity of the injury alone is not enough to assess liability against the Respondent for breaching its duty of care to the Claimant.

The evidence as submitted clearly indicates that the Claimant was receiving the attention of the Respondent in this facility and that its employees were exercising attentive care for his behavior, as is clearly

evidenced by the fact that the Respondent had the Claimant in protective restraint on 8 of the *33* days from admission to injury. Furthermore, Claimant was exhibiting normal behavior for three full days prior to August 19, 1978, and through his own actions convinced the Respondent's employee that he had an appropriate grounds pass.

It is very clear that the Respondent's employee was impressed with the cleanliness and grooming of the Claimant at that time. There is nothing in the evidence to indicate that the Kespondent's employee should have been put on alarm or in fear that the Claimant was attempting to engage in anything other than normal grounds activity which the Claimant had been engaged in on prior occasions.

For the above stated reasons, the Court finds that the Claimant failed to sustain his burden of proof. Therefore, it is hereby ordered that this complaint is denied.

ORDER

JANN, J.

This cause comes on to be heard on the petition of Claimant for rehearing, the Court being fully advised in the premises and having conducted a careful review of the record finds:

Claimant's petition for rehearing is hereby denied.

(No. 82-CC-2315—Claim denied.)

KATIE M. GARLAND and CATHY AMOS, Claimants, *v.*
THE STATE OF ILLINOIS, Respondent.

*Order filed April 19,1984.*

*Order filed July 2,1984.*

*Opinionfiled Nov. 23, 1992.*

ARNOLD E. LANDSMAN, LTD., for Claimants.

ROLAND W. BURRIS, Attorney General (STEVEN SCHMALL, Assistant Attorney General, of counsel), for Respondent.

*NEGLIGENCE—automobile accident—Claimants' vehicle struck parked State vehiclefrom behind-claim denied.* A claim for injuries sustained by the driver of an automobile and her passenger when their vehicle rear-ended a parked State sand truck which had been called to the scene of an accident was denied where, at the time the Claimants' car struck the State vehicle, the emergency lighting on the truck and several police and fire vehicles had been activated and flares had been placed on the roadway, and the Claimants' injuries resulted from their own inattentiveness.

## ORDER

HOLDERMAN, J.

This matter comes before the Court upon motion of Respondent to dismiss the claim of Claimant Cathy Amos, with prejudice.

Respondent's motion sets forth that the accident occurred on April 12,1981,that Claimant was riding in an automobile owned and operated by Katie M. Garland, and that the Garland automobile collided with an Illinois Department of Transportation motor vehicle on the Kennedy Expressway at approximately 901 North in Chicago, Illinois. Cathy Amos and Katie M. Garland joined as Claimants in the instant cause.

Respondent's motion further sets forth section 790.60 of the Court of Claims Regulations and section

25 of the Court of Claims Act (Ill. Rev. Stat. 1981, ch. 37, par. 439.24-5) which requires that any person who files a claim before the Court of Claims shall, before seeking final determination of his claim by this Court, exhaust all other remedies and sources of recovery.

The record is devoid of any evidence indicating that Cathy Amos had made any effort to exhaust such remedies and sources of recovery before seeking a final determination from this Court.

The Court notes that in answer to No. 11 of interrogatories, filed February 8, 1984, "Have you ever filed any other suit for your own personal injuries?" Claimant Cathy Amos answered "No." This Court has repeatedly held that claimant must exhaust all other remedies before seeking final determination in this court.

Claimant having failed to exhaust her remedies, motion of Respondent to dismiss the claim of Cathy Amos is granted, and her claim is hereby dismissed.

## ORDER

HOLDERMAN, J.

This matter comes before the Court upon motion of Claimant to vacate the Court's order of dismissal dated April 19, 1984. The dismissal order was to the effect that Claimant had not exhausted her remedies before filing a claim in this Court.

Claimant's motion to vacate the Court's order of dismissal sets forth that Claimant does not have a claim against anyone other than the State of Illinois and therefore the order of dismissal for failure to exhaust her remedies was wrong. Claimant's position

that there is no other claim available to her does make the State of Illinois the only possible defendant.

The Court finds the dismissal order heretofore entered by this Court on April 19, 1984, is in error, motion to vacate said order of dismissal is granted, and this cause is ordered set for hearing before a commissioner.

## OPINION

**BURKE, J.**

On April 12, 1981, Claimant, Katie M. Garland, was driving her automobile in a northbound direction on the Kennedy Expressway approaching Ohio Street in Chicago, Illinois. Cathy Amos was a passenger in said automobile. It was raining and at approximately 1:00 a.m., Claimant rear-ended a parked State of Illinois sand truck.

Shortly before the accident, a semi-trailer truck jackknifed on the expressway and hung over a guard rail, blocking several lanes of northbound traffic. The sand truck was called to the scene as the semi-trailer truck was leaking diesel oil. Sand was spread over the area to prevent other accidents. Claimants' vehicle rear-ended the sand truck which was parked at the rear of the disabled semi-trailer.

Hal Halihan, Department of Transportation employee, testified that he drove the truck to the scene, switched on his mars lights and all of the trucks flashers together with his headlights and taillights. In addition, he lit flares and gave flares to the Chicago police to light and place further back from the scene to warn the motoring public. Also on the scene were Chicago

police squad cars with their emergency lights on as well as several Chicago fire department vehicles with their emergency lights on.

With all the emergency lighting on the various vehicles and the many flares on the road, the Claimant, Katie M. Garland, rear-ended the parked sand truck. There was no evidence of negligence on the part of the Respondent, State of Illinois. Claimants' injuries resulted from their own inattentiveness and negligence.

It is therefore ordered that the claim of Katie M. Garland and Cathy Amos is denied.

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**(No.** 84-CC-0267—Claim dismissed.)

**TERRY L. GRIMES,** Claimant, *v.* **THE STATE** OF **ILLINOIS,** Respondent.

*Opinion filed June* 2,1993.

**THOMAS P.** NAUGHTON & **ASSOCIATES,** for Claimant.

**ROLAND** W. BURRIS, Attorney General **(ROBERT** J. **SKLAMBERG,** Assistant Attorney General, of counsel), for Respondent.

***TORTS—motorcycle struck roadway defect—Claimant's recovery in civil action exceeded maximum award for tort injuries—claim dismissed.*** Where the Claimant, who was injured when he lost control of his motorcycle after hitting a hole in the roadway, settled a civil personal injury action against the excavating company involved for $150,000, the Claimant's tort action against the State was dismissed because the underlying civil court settlement exceeded the $100,000maximum award available for tort injuries.

LIMITATIONS—*contract claim arising out of motorcycle accident was*

*barred* by *statute of limitations.* The Claimant did not have a valid cause of action against tlie State under a contract theory as a result of injuries suffered when his motorcycle struck a hole in the roadway since, at the time he filed suit, the statute of limitations on such actions had run, and tlie Claimant could not make a good faith argument that he was a third-party beneficiary of a contract between the State and the excavators involved in the incident.

## OPINION

PATCHETT, J.

This claim arises from a motorcycle accident which occurred on August **4,** 1981, in Will County, Illinois. The Claimant allegedly lost control of the motorcycle he was operating after hitting a hole in the roadway.

The Claimant filed a notice of intent and a verified complaint in **1983.** The claim was placed on a general continuance while he pursued an action against John and Ron Excavating. That case was settled for $150,000.

Subsequent to the settlement of the action against the excavating company, the Respondent filed a motion to dismiss in 1985. The basis of the motion to dismiss was that there was a maximum award of $100,000 for tort injuries, and this amount had been exceeded in the underlying civil lawsuit. The Claimant then filed a response to that motion on July 8, 1985.

In May 1987, this Court gave the Kespondent 60 days to file a memorandum of law in support of the motion to dismiss and granted the Claimant 120 days from that date to file a memorandum of law in opposition of the motion. The Respondent filed a memorandum of law, but the Claimant then filed a motion to substitute attorneys and for an extension of time. In

October 1987, this Court granted the Claimant leave to change counsel and an extension of time in which to file a responsive memorandum or otherwise plead. The Claimant filed an amended verified complaint instead of a memorandum of law. That complaint attempted to state a cause of action in contract. The Respondent then moved to dismiss that complaint.

In March, 1988, a commissioner of this Court denied a request which had been made by the Respondent for section 2—611 sanctions. He granted the parties additional time to file memoranda of law.

This Court then entered an order denying all motions to dismiss and remanded this case to the commissioner. The Respondent subsequently filed a motion to vacate that order. About two years later, the complete file, along with the motion to vacate, was finally forwarded to the judge assigned to this case.

The Court vacated its previous order of December 1989 and set the matter for oral argument on all pending motions. Oral argument was held on March 24, 1993.

After the hearing at oral argument and reviewing the file, the Court finds as follows:

The underlying civil court settlement of $150,000 exceeded the amount available to the Claimant under a tort theory of action. Therefore, that motion to dismiss on a tort theory should have been granted.

The Claimant attempted to refile a cause of action under contract theory. Unfortunately, the statute of limitations had run. In addition, the Claimant could not make a good faith claim that he was a third-party beneficiary of a contract between the State of Illinois

and the excavators. Further, the contract claim did not relate back to the original filing sufficient to take it out of the statute of limitations.

Therefore, this Court grants the motion to dismiss this claim.

---

(No. 84-CC-0446—Claimant awarded $49,705.69.)

**ROBERT GANT,** Claimant, *v.* **THE STATE OF ILLINOIS,** Respondent.

***orderfiled May*** 9,1984.

*Opinion filed March 4,1993.*

JACQUELINE A. KINNAMAN, for Claimant.

ROLAND W. BURRIS, Attorney General (MITCHELL WILNEFF, Assistant Attorney General, of counsel), for Respondent.

***EMPLOYMENT—wrongful discharge—reinstated employee awarded $49,705.69 for back salary and lost vacation time.*** Pursuant to a joint stipulation between the parties, the Claimant was awarded $48,649.24 for back ***salary*** in **his** claim against the State following his wrongful discharge from his job with the Department **of** Corrections, and the Court of Claims **also** awarded the employee $1,056.45 for 15 lapsed vacation days, since following the Claimant's reinstatement, his requests to use accrued vacation time under the relevant collective bargaining agreements were denied, and he was not given payment in lieu of vacation **as** mandated by those agreements.

***SAME—wrongful discharge—damages—claim for lost overtime was denied as speculative.*** A reinstated Department of Corrections employee's claim **for** damages for lost overtime **as** a result of **his** wrongful discharge from **his** job was denied **as** speculative, where there was no evidence to show that the Claimant would have worked overtime had he been given the opportunity **or** that, had he been on the job, overtime work would have been required.

ORDER

**KOE,** C.J.

This cause coming before the Court on the joint stipulation of the Claimant and the Respondent, and the Court being fully advised in the premises finds:

This is a standard lapsed appropriation claim for back salary due Claimant as confirmed by the report of the Department of Corrections, dated October 19, 1983.

Salary is due Claimant for the period of November 10, 1978, through June of 1982, less $6,854 received as unemployment compensation from November 18, 1979, through September 20, 1980.

The appropriations, by line items, out of which this would have been paid are as follows: Fiscal years 1980, 1981 and 1982:

| | |
|---|---|
| Personal Services: | 001-42630-1120-00-00 |
| Retirement: | 001-42630-1161-00-00 |
| Social Security: | 001-42630-1170-00-00 |

It is hereby ordered that the sum of $42,324.28 plus employer contributions to the State Employees' Retirement System and/or FICA and minus deductions for appropriate employee payments for State Employees' Retirement Systems and/or FICA, and for Federal and State income taxes as shown in Appendix 1 attached hereto and made a part hereof be paid Claimant.

We note that this award only partially resolves the instant claim, as the parties wish to litigate the issues of recovery for vacation time and overtime. These matters will be ruled upon at a later date after the submission of evidence arid briefs.

## APPENDIX A

Identification of the State Contributions and Deductions from Back Salary Award.

To the State Employees' Retirement System

| | |
|---|---|
| Employee's contribution to State Employees' Retirement System | $2,115.45 |
| Employee's contribution to FICA | 3,174.41 |
| State's contribution to State Employees' Retirement System | 3,150.55 |
| State's contribution to FICA | 3,174.41 |

To Illinois State Treasurer to be remitted to Internal Revenue Service:

| | |
|---|---|
| Claimant's Federal Income Tax | 8,464.86 |

To Illinois Department:

| | |
|---|---|
| Claimant's Illinois Income Tax | 1,269.73 |

To Office of Employment Security:

| | |
|---|---|
| Director Dept. of Labor | 6,854.00 |

To the Claimant:

| | |
|---|---|
| Net Salary | 20,445.83 |

Total Award $48,649.24

## OPINION

SOMMER, C.J.

Claimant Robert Gant filed this claim in August of 1983 seeking $57,043.73 in compensation for his wrongful discharge from his position with the Respondent's Department of Corrections (hereinafter referred to as DOC). He was suspended pending discharge on

November 8, 1979, after being indicted for burglary and actually discharged on December 8, 1979. The discharge was subsequently reversed and Claimant was ordered reinstated by the Civil Service Commission. That decision was ultimately upheld by the appellate court on June 30, 1982. The Claimant was reinstated on November 16,1982.

Based on an agreement of the parties, the Court entered an interim award to the Claimant in the gross amount of $48,649.24 on May 9, 1984, for lost wages. Claimant also sought compensation for lost vacation time and overtime. The parties sought to litigate these issues at a later date and the Court reserved judgment thereon pending submission of evidence and briefs. That part of the case went to hearing on January 12, 1988. The Respondent was granted leave to file its brief on April 10, 1989, and did so. The Claimant has yet to file his brief. The Court has waited long enough.

The claim for payment for vacation days involves either 15 or 17 days (depending on which party's version is correct) which would have accrued during 1980 had Claimant been on the job then. After Claimant was reinstated he was credited by DOC with either 47.6 vacation days or 34 vacation days (or perhaps some number of days in between, again depending on which version is correct). Unlike the facts in the cases cited by the Respondent in its brief, the Claimant here did not lose the days for which claim is made during the time of his wrongful discharge. The days claimed were those earned in 1980 and which should have been credited to him on the day he was reinstated. The days were lost on the first day of the new year after reinstatement, January 1, 1983, pursuant to section 5 of article X of the collective bargaining agreements which were

in effect at all relevant times. That section provides as follows:

"Section **5.** Vacation Schedules

Subject to Section 6 and the Employer's operating needs, vacations shall be scheduled as requested by the employee. In any event, upon request, vacation time must be scheduled so that it may be taken no later than twenty-four **(24)** months after the expiration of the calendar year in which such vacation time was earned. ***If an employee does not request and take vacation within such 24-month period, vacation earned during such calendar year shall be lost."*** (Emphasis added.)

It is the Claimant's position that he is entitled to be paid for the lapsed vacation days pursuant to another provision of the collective bargaining agreement, section 7(a) of article **X,** which provides as follows:

"Section **7.** Payment in Lieu of Vacation

a) If because of operating needs the Employer cannot grant an employee's request for vacation time within the 24-month period after expiration of the calendar year such time was earned, such vacation time shall be liquidated in cash at straight time provided the employee **has** made at least three requests for such time within the calendar year preceding liquidation, or it may be accumulated indefinitely subject to the provisions of this Article."

Insofar **as** the Court of Claims cases cited by the Respondent are relevant to this case, they acknowledge that the theory underlying damages for back salary is to make the employee whole—to compensate the employee to the extent that the discharge has caused a financial loss, **as** stated by the Illinois Supreme Court in ***People ex rel. Bourne v. Johnson*** (1965), 32 **Ill.** 2d 324, 205 N.E.2d 470. They also hold that it is incumbent upon the Claimant to establish he had a specific right to such compensation.

Claimant has established by competent evidence that between the time he was reinstated and the end of that year he lapsed vacation days he would have earned had he been working during 1980. No claim was made for any vacation days which may have arisen

more than 24 months prior to the start of the calendar year in which he was reinstated. As for Claimant's request to use those days, the following testimony by him was not rebutted:

"Q. And when did you return to work precisely, do you recall?

A. Approximately November 16th of '82.

Q. And when you returned to work, did you make any inquiries with regard to the amount of vacation time that you had credited to your personnel file?

A. Yes, I did.

Q. Who did you talk to?

A. I talk to my supervisor and the superintendent of Illinois Youth Center, St. Charles.

Q. And what did you ask them?

o o o

THE WITNESS: I asked them how much time did I have since I came back to work and they told me that they didn't know. I said because I didn't want to lose any time, my time due to the new fiscal year coming in. After the fiscal year come in, then you lose a certain amount of your vacation time that you can only carry on the books so I asked quite frequently. They kept telling me, they kept telling me they didn't know, they didn't know so after the first of the year, after the first of the year, they told me I had to take 17 and a half vacation days because of the year that I couldn't carry them.

Q. All right. If they had told you that you had 17 days credited to your name as of the date you returned to work in November of 1982, would you have requested the opportunity to use those days before the end of the fiscal year?

A. Yes. I even asked about the date.

Q. And who did you ask?

A. Howard Peters, superintendent.

Q. And what did Mr. Peters tell you?

A. He told me that you didn't think that you was coming back to work and go on vacation, did you.

Q. Okay. In other words, was it Mr. Peters' position that you couldn't have used the days any way?

A. Sure.

Q. Now, based on your understanding of your right as an employee, what would have happened if you had not been given the opportunity to use those vacation days before January 1st of 1983?

**A.** If **I** had asked to use them, if **I** had asked to use them and they denied me the using of them, then they **would** have paid me **for** them."

From this testimony and elsewhere in the record, it appears that not only were Claimant's requests denied but that he was not even told about what time he was entitled to until after the time was gone. While the reaction of Superintendent Peters was understandable after Claimant's absence of nearly two years, Claimant was entitled to use the time or have the money. Anything else would be a deprivation of something he would have had as of the date of his reinstatement had he not been wrongfully discharged. To the extent that the personnel rules do not contain a provision corresponding to that in the collective bargaining agreement concerning liquidation in cash and thus may be construed **as** being in conflict with the contract, we find that not to be an **issue** where, as here, the Respondent violated the rules by not scheduling Claimant's time off after requests.

We find that Claimant is entitled to an award for the lapsed vacation days under these circumstances. **As** for the number of days for which he is to be compensated, the preponderance of the evidence is 15 days and a gross amount of $1,056.45.

The second damages issue involves the claim for payment for overtime. Claimant's position is that had he not been wrongfully discharged he would have worked overtime and in order to be made whole and not suffer any financial loss due to the wrongful discharge he should be paid for the overtime. The Respondent argues that any amount of overtime would be speculative, citing *Smith v.* ***State*** (1982), 35 Ill. Ct. Cl. 191.

In support of his case for overtime, Claimant introduced into evidence the provisions of the collective

bargaining agreement pertaining to overtime, a list of the employees at the DOC facility from which Claimant was discharged who held the same position as Claimant (correctional transportation officer), their seniority dates, their overtime hours worked, the Claimant's hourly rate of pay at all times relevant to the claim, and a statement of DOC policy concerning overtime. No witnesses were called to testify.

Overtime can be a recoverable element of damages in a wrongful discharge case. (*Tavoletti v. State* (1978), 32 Ill. Ct. Cl. 162.) However, the Court will not award overtime if to say that the employee would have earned it is speculative. (*Smith v. State* (1982), 35 Ill. Ct. Cl. 191.) The burden is on the Claimant to prove by the preponderance of the evidence that he would have earned pay for overtime but for the wrongful discharge.

The claimant in *Tavoletti, supra,* was employed by the Department of Transportation. Upon reinstatement after wrongful discharge he sought and was awarded compensation for overtime. The evidence in that case was that prior to his discharge he had earned a substantial amount of overtime for snow plowing and salting. There was testimony by the claimant that there was a substantial amount of overtime work on a recurring basis in each year of his employment during certain times of the year and the period of his discharge extended over those times of the year. In addition, the Court was able to take judicial notice of the climate in Illinois and the need for such work. The loss was not speculative. In *Smith, supra,* the Court concluded with no discussion of the evidence that the employee's claim for overtime was speculative.

In the case at bar, we find that the Claimant has failed to sustain his burden of proof on the overtime issue. While it is clear that under the terms of the bargaining agreement he would have had the opportunity to earn overtime during the period of discharge, and it is clear that his co-workers did earn overtime, working overtime was up to the employee's discretion and was not assigned on a mandatory basis unless all employees refused voluntary overtime assignments. There is nothing in evidence concerning the Claimant's overtime activities prior to his discharge as there was in *Tavoletti, **supra.*** There was no testimony by the Claimant or any other evidence to show that he would have worked overtime had he been given the opportunity. There was no evidence that the overtime worked by the others in his position was mandatory due to their unanimous refusal to voluntarily work overtime or that had he been on the job overtime would have been required.

It is hereby ordered that the Claimant be, and hereby is, awarded the gross sum of **$1,056.45** plus appropriate employer contributions and less appropriate employee deductions as will be detailed at a later date in an appendix to be prepared by the clerks office and incorporated herein.

## APPENDIX A

Identification of the State Contributions and Deductions from Back Salary Award.

To the State Employees' Retirement System

| | |
|---|---|
| Employee's contribution to State Employees' Retirement System | **51.45** |

| | |
|---|---|
| Employee's contribution to FICA **$65.50 (6.2%** S.S.) **$15.32 (1.45%** Medicare) | **80.82** |
| State's contribution to State Employees' Retirement System | **58.10** |
| State's contribution to FICA | **80.82** |
| To Illinois State Treasurer to be remitted to Internal Revenue Service: | |
| Claimant's Federal Income Tax | **211.29** |
| To Illinois Department: | |
| Claimant's Illinois Income Tax | **26.41** |
| To the Claimant: | |
| Net Salary | **679.83** |

Total Award **$1,056.45**

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(No. 84-CC-0685—Claimant Home Insurance Co. awarded $95,000.)

**HARRY W. KUHN REDI-MIX CONCRETE, JOSEPH BETTS, and HOME INSURANCE CO., Claimants, *v.* THE STATE OF ILLINOIS, Respondent.**

*Opinion filed* May 17, 1993.

GUNTY & MCCARTHY, for Claimants.

ROLAND W. BURRIS, Attorney General (THOMAS L. CIECKO, Assistant Attorney General, of counsel), for Respondent.

NOTICE—*contribution* action—notice requirements. A notice of intent to file a claim is a condition precedent to filing a claim for contribution in the Court of Claims, and such notice must be given within one

year of the good faith settlement and execution of a proper release, or within one year of being made a party to an underlying civil lawsuit, but if the contribution claim is filed within the notice period, no separate notice is necessary.

SAME—*contribution—Claimants gave proper notice of intent to file claim against State.* Where the Claimants sought contribution from the State for damages paid by the Claimant insurance company to a man injured in an automobile accident, the notice given to the State was proper where the original settlement in the underlying action was entered on August 19, 1983 and amended to include the State as a released party on April 19, 1984, and the claim for contribution was filed on September 22, 1983.

*HIGHWAYS—state's duty to keep highways safe and warn of dangerous conditions.* While the State is not an insurer of highways, it owes a duty to the public to keep highways reasonably safe, to use reasonable, ordinary care in maintaining its roads and to exercise reasonable care so as not to create additional hazards while maintaining its roads, and the State also has a duty to warn the public of unreasonably dangerous conditions on the roadway.

*NEGLIGENCE—proximate cause—what Claimant must prove.* A Claimant in a negligence action must prove by a preponderance of evidence that the Respondent breached its duty and that the breach proximately caused the Claimant's injuries, and proximate cause is any cause which, in natural or probable sequence, produced the injury, and it is sufficient if the cause concurs with some other cause acting at the same time which, in combination with it, causes the injury.

*CONTRIBUTION AND INDEMNITY—automobile accident—Claimants and State equally at fault—Claimant insurance company awarded* $95,000. Where a motorist was injured when the car he was driving struck a bulldozer owned by the Claimant concrete company which was involved with the State in a snow removal operation, the concrete company and the State were equally at fault, since both the bulldozer driver's failure to exercise reasonable care in crossing into the wrong lane of traffic and the State's failure to warn motorists or provide adequate protection for the bulldozer, combined to cause the motorist's injuries, and the Claimant insurance company, which had paid the motorist $190,000, was entitled to an award of $95,000 from the State.

## OPINION

**SOMMER,** C.J.

This is an action for contribution by the State to the Claimants for damages for injuries caused to Steven Marple. The Claimants settled with Mr. Marple on August 19, 1983, for the sum of $190,000, and the

State was specifically released on April 19, 1984. This claim was heard in oral argument on October 26, 1992, and March 24,1993, by this Court.

The first issue to be considered, even before we examine the facts, is whether the Claimants gave proper notice as per section 22—1 of the Court of Claims Act, 705 ILCS 505/22—1.

This Court has held:

"* * * a notice of intent to file a claim **is** a condition precedent to filing of a claim for contribution in the Court of Claims. In order to be timely, the notice and intent must be filed within one year of the good faith settlement and execution of a proper release, or within one year of being made a party to an underlying civil lawsuit." (***Hershey*** *v. State* (1990), 43 Ill. Ct. Cl. 108, 116.)

The Attorney General takes the position that under the language of *Hershey, supra*, notice would have to have been filed on or before April 19, 1985, one year from the date of release of the State. No notice was filed, so the Attorney General requests that this claim be dismissed.

We find, however, that if the claim is filed within the notice period, no separate notice is necessary. *(Crosier v. State* (1987), 40 Ill. Ct. Cl. **203.)** The original settlement in the underlying claim was entered on August 19, 1983, and was amended *nunc pro tunc* to include the State **as** a released party on April 19, 1984. The claim for contribution was filed in this Court on September 22, 1983. Therefore, under the rule in *Crosier, supra*, proper notice was given.

This Court notes an inconsistency in *Hershey, supra*. A party bringing a contribution claim in this Court would have been a party in the underlying action and would have been a party before execution of the releases. Therefore, one year from the effective

date of the releases would always be later than one year from having been made a party. ***Hershey, supra,*** at 115, does state that the contribution claim must be brought within one year of being made a party. However, we believe that the more complete statement of the rule, which we have quoted previously, which appears in ***Hershey, supra,*** at 116, is the rule to be applied to this claim. A rule requiring the giving of notice in the Court of Claims within one year of being made a party would catch many defendants in the underlying action by surprise, as such a rule is not in the formal rules of the Court of Claims. Additionally, a defendant may not be fully aware of all the potential liabilities within a year of being made a party. As a practical matter discovery is often incomplete at that point in time.

A rule allowing notice for one year after releases have been entered in settlement does work to the disadvantage of the State, as the State does not have the opportunity to participate in the underlying action and settlement. For that reason, we hold that this Court must make a finding of and an apportionment of liability in an action in which there was no notice filed prior to the execution of releases. In the circuit court, contribution must be a part of the original or underlying action, but where the State is a defendant, that is not possible. Therefore, we find that the rule allowing notice within one year of settlement gives the best opportunity for other parties and the State to make their claims and defenses against one another.

In this claim, the State was involved in an emergency snow removal operation on Route 56, Butterfield Road, on January 21, 1979. Butterfield Road was a two-lane roadway with a single eastbound lane, a single

westbound lane and a speed limit of 50 m.p.h. The area was rural and had no street lights. The goal of the snow removal operation was to remove all the snow from the south shoulder of the roadway and deposit it in a ditch which ran along the shoulder to the south.

In addition to two State-owned and operated vehicles, the State employed, by oral agreement, the services of Harry W. Kuhn Redi-Mix Concrete to aid in the operation. Pursuant to the agreement, Harry W. Kuhn provided a "Caterpillar" bulldozer-type vehicle (hereinafter referred to as Cat) and a Cat operator by the name of Joseph Betts.

The State trucks were operated by State employees Harold Engstrom and Leo Landell, respectively. The State trucks were assigned to provide protection for the Cat which was removing the snow from the shoulder of the roadway. The State trucks were entirely in the eastbound lane, one behind the other at all times prior to the incident. The trucks each occupied eight feet of the 12-foot wide eastbound lane. The trucks were each equipped with a Mars light on top, two directional lights which were mounted on top of the fenders, and headlights. As it was evening, the lights on the State vehicles were illuminating the area directly in front of the trucks and were set on high beam.

The two State trucks were approximately 40 to 50 feet apart and between them was the Cat. The Cat was equipped with a temporary Mars light mounted on the back and temporary headlights installed for the snow removal operation. The Cat was positioned at a right angle to the shoulder. The Cat would back up into the roadway and then proceed forward pushing the snow

from the shoulder of the roadway into a ditch next to the road. During the course of the operation, the Cat would cross the center line into the westbound lane about one-half of the time. It is undisputed that the Cat was left entirely exposed to traffic when it entered the westbound lane. There were neither flagmen assigned to the operation nor warning signs in advance of the operation.

On one occasion when the Cat reversed over the center line into the westbound lane, the Cat was struck by a vehicle operated by Steven Marple. Mr. Marple suffered injuries as a result of the incident. Following the accident, the snow removal operation proceeded; however, the trucks were positioned so that the Cat was not exposed when it crossed into the westbound lane.

On August 19, **1983,** Harry **W.** Kuhn Redi-Mix Concrete and Joseph Betts reached a settlement agreement with Steven Marple in the amount of $190,000. Home Insurance Company, **as** subrogee, Harry W. Kuhn Redi-Mix Concrete, and Joseph Betts subsequently filed this action against the State of Illinois in the Court of Claims seeking contribution for payment made in excess of Claimants' ***pro rata*** share of the common liability.

While the record does include a list of Steven Marple's specials which total $50,214.63, there is no other testimony or reference to the nature, severity or permanence of his injuries.

The Claimants contend that the State was negligent in the hazardous execution of the snow removal project on January 21, 1979, at Butterfield Road, Route 56.

While it is well established that the State is not the insurer of highways, it is also clear that the State has a duty to keep highways reasonably safe. *(Smith v. State* (1989), 42 Ill. Ct. Cl. 19, 22.) The State has a duty to the public to use reasonable, ordinary care to maintain its roads and, while maintaining its roads, the State has the duty to exercise reasonable care so as not to create additional hazards. *(Smith, supra,* at 23.) Further, the State has a duty to warn if a condition is so unreasonably dangerous that a duty to warn the public or prevent the public in some manner from using that part of the roadway is necessary, *Walter v. State* (1989), 42 Ill. Ct. Cl. 1, 5.

Mr. Harold E. Engstrom, highway maintainer for the State of Illinois, was assigned to the highway maintenance operation on January 21, 1979. Mr. Engstrom testified that his specific assignment was to "block off the lane for traffic to protect the Cat," However, the State did not offer any protection or warning for the Cat when the vehicle crossed into the westbound lane of traffic. There were no advance warning signs or flagmen at the operation site.

Charles Muris, formerly a city traffic engineer in charge of the design and planning division of the bureau of traffic and engineering operations for the City of Chicago, testified as an expert witness for the Claimants. The expert testified that where there is only one available lane for traffic traveling in both directions, traffic maintenance and safety require flagmen at both ends of the operation and, at night, the flagmen should be equipped with torches or lights. He testified that in the instant situation all traffic should have been stopped completely when the Cat reversed into the

westbound lane of traffic. The expert further testified that a situation such as this required warning signs 500 feet in advance of the operation. It was the expert's opinion that the trucks themselves did not give adequate warning to motorists because of the relatively short distance between the State truck and the equipment blocking the moving lane of traffic. In addition, the bright lights of the truck would actually tend to blind a motorist. The expert concluded that all the facts considered together, including the rural curved roadway, the absence of street lights, the high speed, and the fact that only one lane of the road was accessible to motorists, mandated the use of advance warning signs.

The State criticized the expert for having failed to examine the site until 10 years after the date of the incident. This argument is not persuasive in the absence of any evidence in the record that the scene of the incident changed substantially over the 10-year period and that these changes would have somehow affected or changed the expert's opinion.

The testimony is undisputed that the trucks which were assigned to protect the Cat were approximately 40 to 50 feet apart in the roadway and that the Cat was in between the two State trucks at a right angle to the shoulder. The State did not provide motorists any warning of the hazardous condition except for the bright lights of the State trucks which may have tended to blind motorists. In the absence of an advance warning sign and/or flagmen, any vehicle traveling at 50 m.p.h. on an unlit and curved roadway would have virtually no notice that a hazardous condition existed in the west-bound roadway except for the headlights of the State truck in the eastbound lane.

The State assigned a truck with blinding headlights to the eastbound lane of traffic for the dual purpose of protecting the Cat's snow removal operation and warning motorists of the hazardous conditions in the roadway. The State failed to provide motorists with any type of warning signs or flagmen in advance of the operation. It is our finding that the State's failure to provide adequate protection for the Cat and the State's failure to provide proper warning constitute negligence on the part of the State.

The Claimants must, in order to prevail, prove by a preponderance of evidence that the Respondent breached **its** duty and that breach proximately caused the injuries to the Claimants. (*McGlynn & McGlynn v. State* (1985), 35 Ill. Ct. Cl. **104,** 106.) Proximate cause is any cause which, in natural or probable sequence, produced the injury complained of. It need not be the only cause or the last cause or the nearest cause. It is sufficient if it concurs with some other cause acting at the same time, which, in combination with it, causes the injury. (Definition adopted by Court from Illinois Pattern Jury Instructions.) *Smith, **supra.***

In the present case, the State's failure to adequately warn motorists of the hazardous condition in the roadway was clearly the proximate cause of the resulting injuries. However, this Court must examine whether the State's negligence was the sole proximate cause or a contributing factor in the resulting injuries.

The State orally contracted with Harry W. Kuhn Redi-Mix Concrete to perform a service. The agents of the State advised Kuhn's employee that the goal of the operation was to remove the snow from the south shoulder of the roadway and push it back as far as possible.

The record is silent on whether the State required Kuhn's agent to accomplish the goal in any specific manner. In the course of the operation, Kuhn's agent, Joseph Betts, crossed the center line from the eastbound portion of the roadway where he was protected by a State vehicle, into the westbound portion of the roadway where the Cat was left entirely exposed to motorists. Betts testified that he looked to the left and right, checking for traffic each time that he crossed into the exposed roadway. It is clear from the record that Betts knew that he was exposed to vehicle traffic each time he crossed the center line. Betts never objected to the manner in which the operation was carried out although he "didn't necessarily agree with it."

Harry **W.** Kuhn Redi-Mix Concrete provided the equipment and an equipment operator who was presumably qualified to perform the service. Betts, who had eight years' experience as an equipment operator, acknowledged the curved roadway, the absence of protection to his vehicle when he crossed the center line of the roadway, and the bright lights of the State vehicles, yet he proceeded, without objection, to perform the service in a manner which was clearly dangerous. Betts failed to exercise reasonable care for his own safety or for the safety of others. His actions constituted negligence. The actions and omissions of the State in the present case, combined with the action of Betts, were together the proximate cause of the injury to the party herein.

Harry W. Kuhn Redi-Mix Concrete reached a "good faith" settlement with Steven Marple in the amount of $190,000 in exchange for a release from liability for Harry W. Kuhn Redi-Mix Concrete, Betts,

and the State of Illinois. Steven Marple accepted $190,000 to release the parties. It is our view that the totality of the damages were fixed then at $190,000 and as there was a "good faith' finding, the damages remain only to be apportioned between Kuhn and the State. Any amount attributable to Mr. Marple's negligence has been factored into the settlement.

We have made the finding that both parties were negligent. We note that the complaint for contribution states that the State was *50%* of the fault, that the Home Insurance Company paid $190,000 to Steven Marple on behalf of Harry W. Kuhn Kedi-Mix Concrete and Joseph Betts, and that the prayer for relief **asks** for $95,000.

The Claimants' attorney has argued both in the briefs and the oral arguments that the State was entirely or mostly at fault and is liable for an amount in excess of $100,000. This argument is made on the theory that this was a "case sounding in tort arising out of a vehicle owned, leased or contracted by the State," and in such cases the $100,000 limit does not apply. (705 ILCS 505/8.) We find that the situation in the present case was no different than the thousands of times a year that the Department of Transportation contracts with independent contractors who provide vehicles owned by them and drivers paid by them. The State outlines the goals and details of the job and sometimes participates, but does not lease or control the vehicles provided by the contractors. Therefore, the exception to the $100,000 limit does not apply in this claim.

Secondly, the Claimants' attorney argues that there are multiple Claimants, each entitled to $100,000. We

disagree. As the Home Insurance Company has paid the entire liability of Harry W. Kuhn Redi-Mix Concrete and Joseph Betts, it is subrogated to those parties' right to contribution from the State. (790 ILCS 100/2.) Therefore, Home Insurance Company is the only Claimant with an interest. Any liability of Betts was imputed to Harry W. Kuhn Redi-Mix Concrete Company whose right to contribution became the right to contribution of the Home Insurance Company when it paid the liability. With only one Claimant with an interest, the maximum liability to the State in this claim is $100,000.

Upon examination of the record, we find that both parties were equally at fault, and that the State should contribute 50% of the settlement to the Home Insurance Company.

We therefore award the Home Insurance Company $95,000 in full and complete satisfaction of its right to contribution against the State for monies paid arising from injuries caused to Steven Marple.

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**(No. 84-CC-1118—Claim denied.)**

**DAVID A. WEDEMEYER, Claimant, *v.***
**THE STATE OF ILLINOIS, Respondent.**

***Order filed* March 19, 1991.**
***Opinion filed June 2*, 1993.**

**WIMMER, STIEHL & MONTALVO, P.C.,** for Claimant.

ROLAND W. BURRIS, Attorney General (PATRICIA L. HAYES,.Assistant Attorney General, of counsel), for Respondent.

*FRAUD—misrepresentation by officer or agent of State without authority does not bind State.* When fraud is perpetrated by an officer or agent of the State and said officer or agent performs illegally and under authority which he does not have, the action lies against the officer and not the State and, since the doctrine of apparent authority does not apply to the State, an agent without authority cannot bind the State.

*SAME—purchase of lottery tickets from store owner—no agency relationship with State—contract and fraud claims denied.* In the Claimant's action alleging fraud and breach of contract, stemming from his purchase of a large number of Illinois lottery tickets from a store owner who conveyed to the Claimant her belief that there was a good possibility he might win a $100,000 prize, the contract and fraud claims were denied, since there was no evidence of any misrepresentation by the State, and the Claimant failed to prove the existence of an agency relationship between the State and the store owner so as to bind the State.

## ORDER

BURKE, J.

Claimant, David A. Wedemeyer, filed his two-count amended complaint in the Court of Claims on February 27, 1985. Count I alleges that the State of Illinois breached a contract with the Claimant through the "Illinois Lottery." Count II alleges fraud on the part of the State of Illinois.

The case was tried and reviewed before a commissioner of the Court of Claims. The Court being fully advised in the premises finds the following:

The Facts: Claimant participated in the Illinois State Lottery's Fantasy Game in June and July of 1983. The Fantasy Game involved the purchase of tickets with nine game squares covered with a removable silver coating. The purchaser of the ticket was to rub the

coating off each of the nine game squares. If the purchaser's ticket displayed three matching symbols in a row, once the silver coating was removed, he would be entitled to receive the prize indicated on the face of the ticket. The price of the tickets was $1.00. The game player could receive prizes ranging in value from a free $1 ticket to $100,000. Winners of certain prizes were also entered in a grand prize drawing for a $1,000,000 prize.

Claimant purchased tickets in the Fantasy Game in June and early July at the rate of approximately one per week. The Claimant testified that, on July 11, 1983, he was informed by Mrs. Smith of Smith Package Liquor that there were only two $100,000 winning tickets remaining unsold. Smith stated that most of the previous tickets had been distributed in the Chicago area and that those tickets were sold out. Smith stated that to her belief there was a good possibility that the Claimant might win a $100,000 ticket. Claimant testified that he had seen various brochures and advertisements published by the State of Illinois which placed the odds of randomly purchasing a $100,000 winner at 5,520,000 to one. Based upon the representations of Mrs. Smith that the odds of purchasing a winning ticket were increased, Claimant, by means unexplained, calculated his odds of purchasing a $100,000 winner at one in 7000. The Claimant testified that neither Mrs. Smith nor anyone else told him how many tickets remained unsold. The Claimant also testified that he never noticed any information concerning the number of tickets available upon the screen of the lottery computer at Smith Package Liquor.

Based upon Claimant's recalculation of the actuarial tables, Claimant decided to purchase every ticket

available at Smith Package Liquor. Over the next several days the Claimant purchased, with cash, 4,850 Fantasy Game tickets. Claimant was purchasing tickets at the rate of 250 to 300 per day.

Count I alleges that the State of Illinois, through the "Illinois Lottery," offered to Claimant an opportunity to win a $100,000 grand prize in its Fantasy Game in exchange for his purchase of lottery tickets. Despite the fact that the last drawing for said Fantasy Game was held on or about July 8, 1983, it thereafter continued to advertise said Fantasy Game and continued to sell and authorize for sale tickets bearing the slogan, "Win $100,000 instantly." Claimant in Count I alleges that he suffered damages in the amount of $3,850 which is the sum of money spent on lottery tickets following the awarding of the last $100,000 grand prize. Count II alleges fraud on the part of the State of Illinois, in that agents, servants and employees of the Respondent made untrue representations to the Claimant, Claimant justifiably relied on said statements, said statements were made for the purpose and intent of inducing the Claimant to purchase tickets for the game, and he justifiably relied on said misrepresentations, to his detriment.

The Law: Kespondent adequately addresses Claimant's argument that fraud was perpetrated by the officer or agent of the State. The law is quite clear that when a State officer performs illegally and under authority which he does not have, the action lies against the officer and not against the State of Illinois. *Sass v. Kramer* (1978), 78 Ill. 2d 485, 381 N.E.2d 975; *Smith v. Jones* (1986), 113Ill. 2d 126.

On the question of agency in general, this Court

has held that the doctrine of apparent authority does not apply to the State of Illinois, and an agent without authority cannot bind the State of Illinois. (*Emat* v. *State* (1984), 36 Ill. Ct. Cl. 82, 90; *Bellini* v. *State* (1982), 35 Ill. Ct. Cl. 701, 703.) It is clear from the transcript that there is no evidence or testimony of any misrepresentation by the State of Illinois, and if, in fact, any "puffing" for the purpose of inducing a sale was made, it was done by the selling agent without specific or apparent authority to so act. Thus, it is clear that Claimant has failed to provide the existence of an agency relationship so as to bind the State of Illinois.

Thus, it is hereby ordered that the Claimant's claim be denied.

## OPINION

**BURKE,** J.

This claim is based upon a two-count complaint: Count I alleges that the State of Illinois, through the "Illinois Lottery," offered to Claimant, in exchange for his purchase of lottery tickets, an opportunity to win a $100,000 grand prize in its Fantasy Game despite the fact that the last drawing for said Fantasy Game was held on or about July 8, 1983. Thereafter, the Illinois lottery continued to advertise said Fantasy Game and to sell and authorize the sale of tickets bearing "Win $100,000.00 instantly." Claimant alleges that he suffered damages in the amount of $3,850 which is the sum of the money spent on lottery tickets following the awarding of the last $100,000 grand prize.

Count II alleges fraud on the part of the State of Illinois, in that their agents, servants and employees made untrue representations to the Claimant, Claimant

justifiably relied upon said statements, said statements were made for the purpose and intent of inducing the Claimant to purchase tickets for the game, and he justifiably relied on said misrepresentations to his detriment.

In June and July of 1983, Claimant participated in the Illinois State Lottery's Fantasy Game. The Fantasy Game involved the purchase of tickets with nine game squares covered with a removable silver coating. The purchaser of the ticket was to rub the coating off each of the nine game squares. If the purchaser's ticket displayed three matching symbols in a row once the silver coating was removed, he would be entitled to receive the prize indicated on the face of the ticket. The price of the tickets was $1.00 each. The game player could receive prizes ranging in value from a free $1 ticket to $100,000. Winners of certain prizes were also entered in a grand prize drawing for $1,000,000.

Claimant purchased tickets in the Fantasy Game in June and early July at the rate of approximately one per week. On July 11, 1983, Mrs. Smith of Smith Package Liquor told Claimant that there were two $100,000 winning tickets remaining unsold. Mrs. Smith stated that most of the previous tickets were distributed in the Chicago area and that those tickets were sold out and that to her belief, there was a good possibility that the Claimant might win a $100,000 ticket. Claimant testified that he had seen various brochures and advertisements published by the State of Illinois which placed the odds of randomly purchasing a $100,000 winner at 5,520,000 to one; however, based upon the representations of Mrs. Smith, the odds of purchasing a winning ticket were increased. Claimant, by means unexplained, calculated his odds

of purchasing a $100,000 winner at one in 7000. Neither Mrs. Smith nor anyone else told Claimant how many tickets remained unsold and he never saw any information concerning the number of tickets available upon the screen of the lottery computer at Smith Package Liquor. Claimant became determined to purchase every ticket available at Smith Package Liquor. Over the next several days the Claimant purchased 3,850 Fantasy Game tickets, at the rate of 250 to 300 per day.

When fraud is perpetrated by an officer or agent of the State and said officer or agent performs illegally and under authority which he does not have, the action lies against the officer and not against the State of Illinois. (Sass *v. Kramer* (1978), 78 Ill. 2d **485,** 381 N.E.2d 975; *Smith v. Jones* (1986), 113Ill. 2d 126.) This Court has held that the doctrine of apparent authority does not apply to the State of Illinois, and an agent without authority can not bind the State of Illinois. (*Ernat v. State* (1984), 36 Ill. Ct. Cl. 82, 90; *Bellini v. State* (1982), 35 Ill. Ct. Cl. 701, 703.) It is clear that there is no evidence or testimony of any misrepresentation by the State of Illinois, and if, in fact, any "'puffing" for the purpose of inducing a sale was made, it was done by the selling agent without specific or apparent authority to so act. It is, therefore, clear that Claimant failed to prove the existence of an agency relationship so as to bind the State of Illinois. Additionally, the Claimant continued to purchase lottery tickets with an opportunity to win other prizes although the large prize category may have been fully claimed. To find a breach of contract on the part of the State because of the depletion of one prize category would, in effect, defeat the intended purpose of the lottery game.

That Claimant may have relied unreasonably upon the statements of a person not authorized to speak for the State is insufficient to support a cause of action against the State of Illinois.

It is hereby ordered that this claim is denied.

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(No. 84-CC-2828—Claim denied.)

**RAFAEL GONZALEZ,** Claimant, *v.* **THE STATE OF ILLINOIS,** Respondent.

***Opinion filed August 31, 1992.***

**JORDAN TEPLITZ,** LTD. (**JOEL M. BELL,** of counsel), for Claimant.

ROLAND W. BURRIS, Attorney General (**JOHN R. BUCKLEY,** Assistant Attorney General, of counsel), for Respondent.

NEGLIGENCE—***State's duty to maintain premises in reasonably safe condition—harm must be foreseeable.*** The State of Illinois has a duty to maintain its premises under its control in a reasonably safe condition for persons who are legitimately on the premises, but the State is not an insurer of all accidents or injuries that occur on its premises, and in order for the State to be charged with a duty, the harm must be legally foreseeable.

SAME—***Claimant stabbed while working in Department of Public Aid office—attack not foreseeable—claim denied.*** In a negligence action against the State for injuries suffered by the Claimant when he was stabbed by an assailant in a Department of Public Aid office, the claim was denied where, although the assailant had been observed arguing with a security guard and acting strangely in the half hour preceding the attack, there was no evidence that anyone on the premises, including the security guards and State employees, knew that the man had a gun or that the attack was otherwise foreseeable.

OPINION

FREDERICK, J.

Claimant brought this action against the State of Illinois for injuries suffered as a result of a stabbing incident which took place on April 19, 1982, in the office of the Illinois Department of Public Aid located at 412 N. Milwaukee Avenue in Chicago, Illinois. On that date, Mr. Gonzalez was waiting to be processed by the employees of the State when an individual by the name of Irving Jordan stabbed him in the stomach and arm. The cause was tried by the commissioner assigned to the case.

Mr. Gonzalez testified that he had been on the premises for some time when he noticed an unknown individual having a disagreement with the security guard on the premises. The unknown person was Irving Jordan. The State of Illinois, according *to* the evidence, contracts for private security guards to maintain order on the premises of the Department of Public Aid. The Claimant does not know whether or not the assailant was on the scene at the time Claimant first arrived, but he noticed him at approximately 10:00 or 10:30 a.m. Claimant characterized Mr. Jordan's behavior **as** being somewhat crazy, but there was no indication that Mr. Jordan was doing anything other than talking. About one-half hour after the security guard talked to Mr. Jordan, Mr. Jordan appeared immediately in front of the Claimant and took out a knife and simply started stabbing Mr. Gonzalez. He stabbed Claimant in the chest, thigh and hand. At that point, people started yelling, the security guard came running over, pulled his gun and forced Mr. Jordan to drop the knife. There is no evidence that anyone on the premises, including the employees of the State or

the security guards, had knowledge that Mr. Jordan had a knife or any type of weapon during the time he was on the premises.

The State called two witnesses, Eugene Gersch and Kenneth Meyr. Mr. Gersch is an employee of the Department of Public Aid and he was essentially in charge of the 100 or so employees who were at the Milwaukee office on that day. He testified to the routine used for the security guard to bring unruly customers to his office. Whatever problems Mr. Jordan had had with the security guard did not cause the guard sufficient reason to bring Mr. Jordan to see Mr. Gersch. Mr. Meyr has been an eligibility assistance worker for 17 years. He noticed a commotion and saw people moving quickly. He observed the guard with his gun pointed towards the gentleman with the knife. He did not observe anything in the office unusual prior to Claimant being stabbed.

The State of Illinois has a duty to maintain its premises under its control in a reasonably safe condition for persons who are legitimately on those premises. ***(Owens v.*** *State* (1989), 41 Ill. Ct. Cl. 109.) The Claimant was legitimately on the State's premises and the State owed him a duty to maintain the premises in a reasonably safe condition. However, a legal duty requires more than the mere possibility of an occurrence and the State is charged with a duty only when the harm is legally foreseeable. ***Wilson v.*** *State* (1989), 41 Ill. Ct. Cl. 50.

The issues of foreseeability and duty involve a myriad of factors. It is the finding of this Court in reviewing those factors that the State had no legal duty to Claimant in regard to the unforeseen actions of the assailant in this case.

The State is not an insurer of all accidents or injuries that occur on its premises. *Gillmore v. State* (1987), 40 Ill. Ct. Cl. 85; *Berger v. State* (1988), 40 Ill. Ct. Cl. 120.

The Claimant has failed to prove that the State breached a legal duty owed to Claimant. Under the "public duty" rule, a police officer's duty to enforce the law is a duty owed to the public generally and not to specific persons. A police officer is generally not liable when he fails to do his duty in enforcing a law. However, under the facts of this case, we find there was no duty to arrest or remove Mr. Jordan from the premises prior to the attack on Claimant.

For the reasons heretofore stated, it is the decision of the Court that this claim be and hereby is denied.

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(No. 85-CC-1292—Claim denied.)

DONALD NELSEN, Claimant, *v.* THE STATE OF ILLINOIS, Respondent.

***Opinionfiled August 8, 1991.***

***Orderfiled December 18, 1992.***

GOLDMAN & MARCUS, for Claimant.

ROLAND W. BURRIS, Attorney General (ERIN O'CONNELL, Assistant Attorney General, of counsel), for Respondent.

EMPLOYMENT—***action to enforce enlistment contract with Illinois National Guard—no meeting of minds—claim denied.*** In the Claimant's action against the State to enforce an enlistment contract with the Illinois National Guard seeking back pay and various employment benefits, the

claim was denied, since the Claimant's testimony and that of a National Guard officer showed that there had been no meeting of the minds with regard to the Claimant's employment, the Claimant had not been sworn in or completed the pre-requisites for entry into the Guard, and he was not considered by the State to be an acceptable applicant lor the position.

## OPINION

**BURKE,** J.

The Claimant, Donald Nelsen, brings this action against the State of Illinois to enforce an employment/enlistment contract and seeks compensation for the period from September 18, 1981, to date, for wages, accumulated sick-leave pay, uniform allowance, vacation credits, retirement credits, as well as reimbursement for medical and dental expenses incurred by Claimant during the period that same were available to employees.

Claimant alleges that on or about September 18, 1981, he was hired into a battalion of the Military and Naval Department of the State of Illinois, and more particularly, the 508th Medical Company; that, through interviews and discussions with Major Thompson at the Chicago Avenue Armory in Chicago, he was directed and did take all the necessary physical tests and completed all enlistment and application records. Claimant further alleges that he worked on September 18, and when he reported back the next day, he was advised that he would not be re-employed which constituted improper termination of his employment.

Respondent filed a motion to dismiss for lack of jurisdiction and this Court ruled on July *23,* 1990, that there was an employment agreement with a State agency rather than the Federal government as Claimant did not take an oath of enlistment which was necessary

for enlistment into the National Guard, and Respondent's motion was denied.

The sole issue presented is whether the Claimant was appointed to a position with the Illinois National Guard and if so, was he entitled to the aforesaid back pay because his employment was improperly terminated.

Lieutenant Colonel Frank L. Thompson of the Illinois National Guard testified that he commenced employment in January 1966, that he was in command of the 33rd Military Police Battalion in Chicago, that he was an administrative officer through most of his career, and that he was presently the assistant State maintenance officer for the State of Illinois Guard.

Claimant was told by Col. Thompson to re-enlist into the National Guard which would require attendance one weekend a month and two weeks in the summer and that there was a full-time position with the Illinois National Guard at the Broadway Armory in Chicago. The latter position required enlistment in the National Guard. Col. Thompson further testified that the Claimant was never sworn into the National Guard and that the National Guard Rules and Regulations provided that (Reg. No. 600-2) everything must be completed for an individual to join the military. Therefore, he stated, "Mr. Nelsen was never sworn into the National Guard and that ended everything there was to it."

The Colonel previously testified that he told Mr. Nelsen that there were two people in the Armory who strenuously objected to his being in the Illinois Armory and advised him to accept the part-time job with the Naval Armory, which he refused and elected to "go home."

Claimant's counsel cites two cases which hold that the swearing-in process is a mere formality and that failure to do so did not constitute an act that would exclude one from being a member of the Guard. These cases do not alter the fact that the State's regulations as to entrance into the Illinois National Guard require completion of all requirements into the National Guard before being eligible for enlistment into the Illinois National Guard. There is a dispute as to whether the Claimant was ever sworn in, the Claimant stating that he was sworn in and Col. Thompson stating that the Claimant never took the oath of office. Kespondent's records do not reflect completion.

The facts herein do not indicate, by the weight of the evidence, that there was completion of all the prerequisites for proper entry into the Illinois National Guard. The basic and fundamental rule of any contract requires a meeting of the minds, which does not exist in the instant case. Respondent never indicated at any time in these proceedings that it accepted the Claimant's reenlistment application. Further, assuming it did indicate previous acceptance, the testimony of Col. Thompson clearly showed that the Claimant was not acceptable to the Respondent and so informed the Claimant.

Wherefore, it is hereby ordered that this claim is denied.

## ORDER

**BURKE,** J.

This cause coming to be heard upon Claimant's request for review and the Court being fully advised in the premises,

It is hereby ordered that Claimant's request is hereby denied.

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(No. 85-CC-1831 — Claim denied.)

JOHN M. HOGAN, Claimant, *v.* THE STATE OF ILLINOIS, Respondent.

***Opinion filed June 29, 1993.***

SMITH & MUNSON, for Claimant.

ROLAND W. BURRIS, Attorney General (JOHN **R.** BUCKLEY, Assistant Attorney General, of counsel), for Respondent.

HIGHWAYS—*burden is on Claimant to prove State's breach of duty to maintain highways.* Although the State has a duty to maintain its highways in a reasonably safe condition for the purposes for which they are intended and to exercise reasonable care in their maintenance and repair, the Claimant must prove that the State breached its duty by knowingly allowing a dangerous condition to exist, and that the breach was a proximate cause of the Claimant's injuries.

SAME—*motorcycle accident—failure to prove state's negligence—claim denied.* Where the Claimant produced no evidence, other than his own testimony, that a pothole in the roadway caused him to lose control of his motorcycle and sustain injuries, and a State trooper testified that the Claimant told him after the accident that he was used to a smaller motorcycle and lost control of the one he was riding, the Claimant failed to meet his burden of proving the State's negligence and his claim was denied.

## OPINION

PATCHETT, J.

This claim arises out of a motorcycle accident which occurred on August 1, 1982, at or near the intersection of Elmhurst Road on eastbound Interstate 90. Claimant lost control of his motorcycle and he sustained

serious injuries. There were no witnesses to the accident, except the Claimant.

The claim was filed alleging that the accident was due to a pothole in the road, which is maintained by the Illinois Department of Transportation. A trial was held before the commissioner of this Court. Claimant produced no evidence or witnesses other than himself that a pothole caused the accident, or even that an unsafe condition existed at the time of the occurrence. Evidence did come in that Claimant stated to the trooper who investigated the accident that he was used to riding a smaller motorcycle and had lost control of the one he was riding at the time of the accident.

It is clearly established law that the State does have a duty to maintain the highways in a reasonably safe condition for the purposes for which they are intended. ***(Robertson v. State*** (1983), *35* Ill. Ct. Cl. **862.)** The State has a duty to persons using streets and roads to exercise reasonable care in their maintenance and repair. (***Baren v. State*** (1974), *30* Ill. Ct. Cl. **162.)** The Claimant, however, retains the burden to prove by a preponderance of the evidence that the State breached its duty by allowing a dangerous and hazardous condition to exist even though it knew of the existence of the condition. Further, the Claimant has the burden of proof to prove that the breach of duty was a proximate cause of Claimant's injuries and damages. ***(Roach v. State*** (1986), **38** Ill. Ct. Cl. **171.)** Claimant has simply failed to meet that burden of proof, and therefore, we deny this claim.

(No. 85-CC-2023—Claim dismissed,)

**GEORGE HOWELL,** Claimant, *v.* **THE STATE** OF **ILLINOIS,** Respondent.

*Order filed June 25, 1993.*

**JAMES** J. KENNEY, for Claimant.

ROLAND W. BURRIS, Attorney General (COLLEEN MCCLOCKEY VON OHLEN, Assistant Attorney General, of counsel), for Respondent.

EXHAUSTION **OF REMEDIES**—*all other remedies must be exhausted before seeking final determination of claim.* Section 25 of the Court of Claims Act and section 790.90 of the Court of Claims Regulations require that the Claimant shall, before seeking final determination **of** his claim in the Court of Claims, exhaust all other remedies, whether administrative, legal or equitable.

**PRISONERS AND INMATES**—*inmate assaulted—failure to exhaust remedies—claim dismissed.* An inmate's claim for injuries he allegedly received when he was attacked by a fellow inmate was dismissed, since the inmate failed to exhaust his remedies by filing suit against the attacker prior to seeking **final** disposition in the Court of Claims, and the fact that the statute of limitations had run on the Claimant's action against the inmate did not abrogate the exhaustion requirement.

ORDER

PATCHETT, J.

This cause coming to be heard on Respondent's motion to dismiss, due notice having been given and the Court being fully advised in the premises, the Court makes the following findings:

The Claimant seeks damages for personal injuries allegedly sustained when Claimant, who at the time of the alleged occurrence was an inmate at Joliet Correctional Center, was allegedly attacked by another inmate named Henry Henderson. Claimant alleges that the Respondent owed Claimant a duty of protection while Claimant was incarcerated at Joliet Correctional Center, and that Respondent breached that duty on September

**25, 1984,** when another inmate, Henry Henderson, attacked Claimant.

Section **25** of the Court of Claims Act and section **790.90** of the Court of Claims Regulations require that the claimant shall, before seeking final determination of his claim before the Court of Claims, exhaust all other remedies, whether administrative, legal or equitable. ***Doe v. State*** (1991), **43** Ill. Ct. Cl. **172,** is controlling authority on the exhaustion of remedies issue before this Court. In that case, the claimant, a patient at John J. Madden Health Center, brought suit against the State in the Court of Claims after she had been sexually assaulted by another patient. The claimant did not file an action against her assailant. This Court dismissed her claim pursuant to section **25** of the Court of Claims Act and section **790.60** of the Court of Claims Regulations because she failed to exhaust her remedies. The Court relied upon *Boe v.* ***State*** (1984), **37** Ill. Ct. Cl. **72,** in holding that the claimant's action was barred.

In ***Lutz v. State*** (1989), **42** Ill. Ct. Cl. **124, 126,** the claimant sued the State for damages resulting from personal injuries sustained when the claimant, an inmate at Joliet Correctional Center, was attacked by his cellmate, Franke Alerte. The Court wrote

> **"Like the claimant in Essex, Claimant in the case at bar failed to exhaust all remedies available to him prior to seeking final disposition of his claim in the Court of Claims. Accordingly, the Claimant here was obligated to bring a civil action against Frank Alerte."** ***(Lutz v. State*** **(1990), 42 Ill. Ct. Cl. 124,126.)**

The Court then dismissed claimant's complaint with prejudice for failure to exhaust all remedies pursuant to section **790.90** of the Court of Claims Regulations.

In *Boe v.* ***State*** (1984), **37** Ill. Ct. Cl. **72,** claimant's decedent was killed when the car in which she was **a** passenger collided with an allegedly defective guardrail **on** a

State highway. The driver of the automobile was an 18-year-old uninsured man with no assets. This Court held that section 25 of the Court of Claims Act and section 790.60 of the Court of Claims Regulations barred claimant's suit against the State.

"* * * Court of Claims quite clearly makes the exhaustion of remedies mandatory rather than optional." *Lyons v. **State*** (1981), **34 Ill.** Ct. Cl. **268, 272.**

These principles were most recently used in our dismissal of the case of an inmate who had allegedly been attacked by his cellmate. We held that claimant failed to exhaust his remedies by not pursuing a civil action for damages against the assailant. ***Lutz v. State*** (1989), 42 Ill. Ct. Cl. **124.**

Similarly, the case at bar should be dismissed for failure to comply with the exhaustion of remedies requirement. Claimant has not brought a civil action against his assailant, Henry Henderson. As the above-cited case law indicates, this failure to bring suit against Henderson precludes this suit against the State in the Court of Claims.

The fact that the statute of limitations has run regarding Claimant's action against Henderson does not abrogate the exhaustion of remedies requirement:

"The fact that Claimant *can* no longer pursue those remedies cannot be a defense to the exhaustion requirement. If the Court were to waive the exhaustion of remedies requirement merely because Claimant waited until it **was too** late to avail himself of the other remedies, the requirement would be transformed into an option, to be accepted or ignored according to the whim of all claimants." Lyons *v. **State*** (1981), **34 Ill.** Ct. Cl. **268,272.**

The exhaustion of remedies requirement is not optional or discretionary. It is a mandatory measure that claimants must pursue in order to bring an action in the Court of Claims: In the case at bar, Claimant has failed to

exhaust his remedies, and as a result, this Court has no jurisdiction to hear his case.

It is hereby ordered that Claimant's claim is dismissed with prejudice.

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(No. 85-CC-2329—Claim denied.)

JOHNNY SMITH, Claimant, *v.* THE STATE OF ILLINOIS, Respondent.

*Opinion filed* January 23, 1992.

Order *filed December 18, 1992.*

JOHNNY SMITH, *pro se*, for Claimant.

ROLAND W. BURRIS, Attorney General (JOHN R. BUCKLEY, Assistant Attorney General, of counsel), for Respondent.

PRISONERS AND INMATES—*inmate's finger injured while playing basketball on ice—claim denied.* Where an inmate who sustained a finger injury while participating in a basketball game on ice filed a claim alleging that he received improper medical care resulting in a finger deformity, the claim was denied because the inmate assumed the risk attached to his activity and failed to prove the State's negligence by a preponderance of the evidence.

OPINION

BURKE, J.

This cause coming to be heard upon the report of the commissioner, after hearing all evidence and reviewing the evidentiary depositions submitted, this Court being fully advised in the premises, finds:

That Claimant was incarcerated at Pontiac Correctional Center when he sustained injury to his finger. The injury occurred while Claimant was participating in a recreational basketball game *on ice.* (Emphasis added.)

The Claimant reported his injury and received medical attention, but was dissatisfied with the medical care received. At hearing, the finger appeared to have a mild deformation,

Claimant's attending physician, Dr. R. S. Pankaj, indicated that Claimant's finger was X-rayed soon after the ice-basketball game and that the finger in question was not broken. He described the injury as a "mild fusiform swelling in the proximal interphalangeal joint area, * * * and Claimant had a ten degree lack of full extension [of the finger]."

Claimant's claim is denied for failure to prove by a prepondarance of the evidence that the Respondent was guilty of negligence. When one voluntarily undertakes to play basketball on ice, there is an assumption of risk which attaches to said activity.

Wherefore, it is hereby ordered that this claim is denied.

ORDER

**BURKE,** J.

This cause coming to be heard upon Claimant's motion for rehearing and the Court being fully advised in the premises,

It is hereby ordered that Claimant's petition is hereby denied.

(No. 85-CC-2636—Claim denied.)

NEW LIFE DEVELOPMENT CORP., Claimant, *v.*
THE STATE OF ILLINOIS, Respondent.

***Opinion filed November 12, 1992.***

PHILLIP A. MONTALVO, for Claimant.

ROLAND W. BURRIS, Attorney General (LE GRAND L. MALANY, Special Assistant Attorney General, of counsel), for Respondent.

CONTRACTS—*contract construction-determination of* ***parties' intentions, rights and obligations.*** In construing a contract and determining the intentions of the parties, the instrument must be considered as a whole, and the rights and obligations of the parties are to be determined from the plain, unambiguous wording of the contract, and there can be no oral modification of the clear terms of a contract without the consent of both parties thereto.

SAME—*mere assertions of* ***agent do not bind State.*** In dealing with an agent of the State, one must ascertain at his peril the authority of the agent, and the mere assertions of the agent are not sufficient to bind the State.

SAME—***developer's claim*** for ***breach*** of ***lease and construction contract—no written approval by State-claim denied.*** In a developer's action against the State for breach of a lease and construction contract alleging that the Claimant was to make improvements to its building, then lease the property to the Department of Corrections for a community work release center, the claim was denied despite the signing of a lease by representatives of both parties, since the contract provided that the lease was contingent upon the written approval of two State officials, neither of whom gave such approval, and the State did not appropriate funds for the project, which appropriation was a further contract contingency.

JURISDICTION—***Court of Claims*** has ***no jurisdiction to grant equitable relief—developer could not recover in quantum meruit.*** Since the jurisdiction of the Court of Claims does not encompass equitable remedies such as ***quantum meruit,*** a developer could not obtain equitable relief against the State in its action arising out of demolition work completed on a building owned by the developer which the State was planning to lease under an agreement that was subsequently terminated.

## OPINION

MONTANA, C.J.

The Claimant, New Life Development Corporation, filed its claim in the Court of Claims on May 12, **1985.**

The State filed its answer and affirmative defenses denying the claim.

Claimant, in its complaint, seeks $999,686 in damages from the State for the alleged breach of a lease and construction contract with the State. The Claimant alleges that the Claimant was to make substantial improvements to a building it owned in East St. Louis, Illinois, and then it was to lease the property to the Illinois Department of Corrections for a community work release center. The State allegedly was to reimburse the Claimant for renovations. Claimant alleges the project fell through after Claimant had completed considerable demolition to its building and Claimant was left with a useless building.

The cause was tried before Commissioner Robert Frederick over several days. The cause has been fully briefed by the parties and the commissioner has filed his report. The evidence consists of the transcript of testimony taken on March **23,** 1990, the transcript of testimony taken March 27, 1990, and the transcript of testimony taken April 18, 1990. The evidence also consists of the following exhibits which were admitted at trial:

*Claimant's Exhibits:*

Exhibit No. **1:** For Sale building, photographs and literature for 2900 Missouri Avenue, East St. Louis, Illinois

Exhibit No. ***2:*** Mini-mall photograph and literature

Exhibit No. ***3:*** Building photograph and literature for multi-purpose building

Exhibit No. 5: Six photographs of building

Exhibit No. 6: Single photograph of building

Exhibit No. **7:** Missouri Corporate Certificate of Claimant

Exhibit No. 8: Survey report from Capital Development Board

Exhibit No, 8a: Completed survey report from Capital Development Board

Exhibit No. **9:** Program Statement, Alcoa Building

Exhibit No. **10:** Handwritten William Obrock notes and phone message

Exhibit No. **12:** Corporate Resolution of Claimant

Exhibit No. **13:** First draft of lease

Exhibit No. **13a**: Final draft of lease

Exhibit No. **15:** Assignment of rents

Exhibit No. **16: 2/3/84** blueprints (CDB) (I)

Exhibit No. **17: 2/3/84** blueprints (CDB) (II)

Exhibit No. **19:** Four pages of handwritten William Obrock notes

Exhibit No. **20:** March **20, 1984,** letter from Mr. Brent of Claimant to Illinois Department of Central Management Services

Exhibit No. **24:** May **1, 1984,** letter of transmittal as to proposed contractors

Exhibit No. **25:** Two publications of invitation to bidders

Exhibit No. **26:** May **21, 1984,** letter to newspaper

Exhibit No. **27:** May **22, 1984,** letter to newspaper

Exhibit No. **28:** May **23, 1984,** letter of William Obrock of Claimant to Illinois Department of Corrections

Exhibit No. **29:** June **7, 1984,** final blueprints

Exhibit No. **30:** Specifications for renovations

Exhibit No. **31:** Addendum No. **1** to specifications for renovations

Exhibit No. **31a:** Addendum to electrical specifications for renovations

Exhibit No. **32:** Telephone bills of Claimant

Exhibit No. **33:** December **18, 1984,** executed termination of lease executed by Respondent

Exhibit No. **34:** Appraisal report of property as of March **31, 1984,** by Lance D. Lunte

Exhibit No, **35:** Appraisal report of property as of July **1, 1987,** by Lance D. Lunte

Exhibit No. **36:** Cancelled checks of Claimant totalling **$50,292.03** and invoices

Exhibit No. **38:** Central Management Services space request by DOC to CMS

Exhibit No. **39:** March **16, 1984,** letter, Vito Stallone to Wayne Brent

Exhibit No. **40:** March **15, ,1984,** letter from Gary Skoien of CDB to CMS

Exhibit No. **41:** March **22, 1984,** memo from Vito Stallone

Exhibit No. **42:** Handwritten memo by Vito Stallone

***The** Facts*

The Claimant, New Life Development Corporation, made its building at 2900 Missouri Avenue, East St. Louis, Illinois, available for sale or lease in 1981. Phil Johnson, a realtor and president of Kenneth Johnson Agency of Belleville, Illinois, was showing the property to prospective buyers or lessees. In 1983, Mr. Johnson had an inquiry from the Illinois Department of Corrections (DOC) about using the property, hereinafter referred to as the "Alcoa Building," as a work release center. Mr. Johnson contacted Mr. Wayne Brent of Claimant about the inquiry and a showing of the building was set up for November 18, 1983, for DOC personnel. Another showing was set up for November 21,1983, at which time an additional DOC official reviewed the premises. Wayne Brent of Claimant did not know the purpose of the showing as DOC sought to have their inquiry and possible plans for a work release center kept secret due to possible bad publicity.

The building was shown again on November 9, 1983, and on December 14, 1983, to DOC officials and officials from the State's Capital Development Board (CDB). On January 30, 1984, a meeting took place wherein CDB, DOC, and Central Management Services (CMS) officials wanted to discuss with the owner, New Life Development Corporation, preliminary matters as to what would need to be done with the building in order for the State to occupy the building.

Another meeting was held on February 9, 1984, at the DOC building in Springfield. The parties went through the entire proposed lease almost word for word. The cost of figures used were rough figures. DOC preferred that the improvements required by DOC for a work release center be paid for and completed by the lessor and that

when DOC moved into the building the lessor would be reimbursed for the improvements.

On February 15, 1984, Mr. Johnson, the realtor, received a letter from Vito Stallone with the first draft of the proposed lease. The lease was from CMS and was for a five-year lease of the Alcoa Building. Mr. Johnson was to take the lease to Mr. Brent of New Life Development Corporation and if no changes were required, he was to get the lease signed and return it to Mr. Stallone.

Mr. Brent and Mr. Obrock of Claimant went over the proposed lease. The following language was added by New Life Development Corporation and was part of the final signed lease.

"The improvements made are at the request of the lessee under leasehold improvements and that the payments therefore are not to be considered as rent."

Paragraph 72 on page 5 of the final lease was also added. This paragraph interpreted paragraph 71 as to payment for costs of improvements. The changes from the first draft to the final draft are in paragraphs 69 and 72.

The lease was signed on February 18, 1984. On February 29, 1984, a press conference was held to announce the renovation of the building into a work release center. Many politicians and government officials attended the press conference. Mr. Johnson was to receive a fee for his work of 5% of the gross amount of the lease once the lessee took occupancy of the building. He has never received any payment from Claimant. Mr. Johnson's only other involvement was to allow inspectors into the building to inspect the building.

Wayne Brent was a real estate developer who was a stockholder in Claimant, New Life Development Corporation. He was an officer and director in 1983 and 1984.

New Life purchased the building at 2900 Missouri Avenue, East St. Louis, Illinois, in 1978. The purchase price was $100,000 as it was. They put about $25,000 into the property up until 1983. There was a tenant in the building when it was purchased and there were plans to turn the building into a mini-mall. They had some tenants in 1983. All tenants were out by December **31,** 1983. In the winter of 1984-85, the property was vacant. The present status of the building is that it is totally gutted. Most of the windows are out or broken.

In the fall of 1983, Mr. Brent received a call from realtor Johnson in reference to a prospective tenant for the entire building. Mr. Brent did not know who the prospective tenant was for over a month. Even then he did not learn the purpose of the State's interest for some time. He learned the State liked the building and in January of 1984 he learned that DOC was the agency seeking to use the building. He met with State officials to work out a lease. This was the February 9, 1984, meeting. The State was at the point of entering into a lease agreement on the building. The State had proposed blueprints dated February 3, 1984, for use at the February 9, 1984, meeting.

At the February 9, 1984, meeting the State indicated the building was not suited for the intended purpose of DOC. The State wanted to lease the building **as** is from Claimant. However, the State wanted the building renovated as quickly as possible for their intended use and by the Fall of 1984. It was believed the Claimant could renovate faster than the State could.

Initially Claimant wanted to just lease the property as is to the State. As discussions continued, there was more interest in Claimant taking on the redevelopment. Claimant had to obtain financing for the renovations

because a sizable amount of money would be required. Claimant obtained commitments for the renovations from two banks. DOC officials advised the Claimant that the State had the funds to reimburse Claimant for the renovations. The banks verified the funds availability. In the lease there was an escape clause in the event there was not an appropriation for that particular lease.

Mr. Brent believed there were two contracts. One contract was the five-year lease. The other was for the renovations. He felt Claimant could not do one without the other, especially with the time frame of the State wanting occupancy by September 1, 1984. DOC had advised Claimant that DOC already had $4 million available for correctional facilities. The renovations for this project were going to be about $1,600,000. Mr. Brent agreed that the basic terms of the lease were agreed upon at the meeting on February 9, 1984. After receiving the draft of the lease, Mr. Brent and Mr. Obrock of Claimant took the draft to their CPA to determine the tax effects of the lease. They were concerned as to the income effect on Claimant of the reimbursement for the improvements. They did not want the reimbursement by the State for improvements to be considered rent which would have had a disadvantageous tax effect on Claimant.

The State was going to pay a lease rate for an as is building and reimburse Claimant for the improvements to be made. The additions to the lease that became the final lease were included by Claimant on the basis of the accountant's concerns. Claimant informed CMS of the requirement that paragraph 69 be changed. The State then added paragraph 72. Shortly after the changes were made, Claimant, and then the State, signed the lease. The lease was signed February 27, 1984. Mr. Giordano of CMS signed the lease on March 22, 1984.

Mr. Brent did not work on the plans for the renovations and the cost estimates for the renovations. This was Mr. Obrock's bailiwick. On February **14, 1984,** Claimant enacted a resolution to borrow $150,000 to begin the project. The Claimant assigned its rents to the bank to receive its loan in addition to a real estate mortgage. Mr. Brent also recalled the press conference following the signing of the lease. He recalled that Michael Lane, Director of DOC, assured him the lease was signed and that the State was 100% behind Claimant.

Upon the signing of the lease Claimant moved into the demolition phase of the project. Claimant was to take drawings prepared by CDB and remove certain partitions of the building. The building was to be cleared and made ready to put in new equipment. At this point all the previous occupants were out of the building. Demolition work proceeded until May **11, 1984.** Total expenditures by Claimant for demolition totalled $50,292.03. Mr. Brent was also the owner of the company that was the prime contractor for the demolition work. During the demolition work Mr. Brent would often see representatives of different State agencies examining the project. He recalled representatives of DOC and CDB being present. CDB representatives would mark walls and make sure Claimant did things exactly the way they wanted it. He also received calls from DOC checking on the renovations during this period.

After demolition work was completed in May, Claimant let out bids for the renovations. On June 22, **1984,** an official bid-opening occurred at the mayor's office in East St. Louis, Illinois. At the State's request, minority participation was emphasized. The bids came in close to the anticipated estimates of cost.

The first time Mr. Brent learned of a problem with the project was when the realtor Johnson called him about a newspaper article in July of 1984 indicating that the State senator in whose district the project was located had reversed his position on the project. On July 18, 1984, the appropriations bills for the Department of Corrections were signed by the Governor and upon signing became effective as law. The appropriations bills stated that no monies could be expended in St. Clair and Madison counties. The senator's amendment to the appropriations bills put chaos into the project. His amendment stopped the project although the State agencies felt there might be some relief in the Fall veto session. However, the funding was never restored.

Claimant was sent a termination notice form dated November **13,** 1984, from the State indicating there had not been funds appropriated by the General Assembly so the lease No. 03985 was terminated.

In regard to the renovations, the Claimant did receive $32,000 from the State. Paragraph 72 of the lease indicated that if for any reason the lease did not go forward, Claimant would be reimbursed for certain architect and engineering fees. Claimant received no other monies from the State.

Eventually, after the project fell through, Claimant abandoned the building. It was impossible to secure the building in its present condition and it cannot be insured. Claimant has tried to sell the building but has not received any offers of value.

Mr. Brent admits that the contract is one document but he believes it has two separate parts. The entire project was contingent on the directors of CMS and DOC approving the total costs of the project in writing. The

State was going to lease the building but it had to be in turnkey condition. The contract called for Claimant to come in to the State with a set of plans and a cost estimate. These were to be presented to DOC and CMS for written approval. It was Mr. Brent's belief that the State was not entitled to Claimant's drawings and cost estimates because CDB provided their own drawings to be used and CDB directed Claimant to take bids from the appropriate subcontractors. He believed that this procedure let the State know what the costs were going to be. The State was also made aware of the costs on the date of the bid openings, June 22, **1984, as** some State people were at the bid opening according to Mr. Brent.

It was Mr. Brent's position that by the State's actions the costs and plans were approved even if he could not produce a written approval signed by CMS and DOC. He believed the banks would not have loaned New Life the money for renovations if the whole deal was off or if the lease fell through.

On cross-examination Mr. Brent admitted that there was one contract for the lease of space in a certain condition. It had two parts, being the lease and the renovations. Mr. Brent had an attorney verify the legal description in the document in the event the State purchased the property. However, he did not have the attorney comment in regard to the contract language. The State officials encouraged the demolition according to Mr. Brent. No one from the State told New Life not to begin work until further documents were presented and approved. The State also indicated that they wanted New Life to use minority contractors.

William Obrock was a stockholder, officer, and director of New Life, too. Mr. Obrock was also the owner of a

company named Design Built Collaborative, Inc. This was the company hired by New Life to do the design of the technical documents for the renovation. Design Built was an architectural and construction company. CDB gave New Life blueprints with all of the project's dimensions. The State proposed it all. The State had people go through the building prior to the blueprints being drawn. New Life was anxious to rent the building in **1984,** They were not excited about doing the renovations. New Life did not want to go out and borrow money to pay for renovations over an extended period of time. They did not want to be in a position where the State did not renew the lease after five years and be unprotected and have to pay for all the improvements for a single-purpose building.

New Life was concerned about putting in all the improvements and the State just walking away. They wanted to rent to the State and have the State pay for the improvements. The agreement New Life felt it had made with the State was that New Life would put in the improvements and the State would reimburse New Life in a one-time single payment for the entire project. This payment was to be made when the State occupied the space. The State poured over every detail of what New Life was doing. New Life followed every rule the State put forth on minority hiring and publication notices.

Mr. Obrock testified that paragraphs 69 and 72 were added to the original draft of the lease for two reasons. The first reason was for tax purposes. Claimant wanted it clear that the reimbursement for renovations payment was not to be construed as rent. The State always considered such payments as rent for the State's purposes. The second reason was they wanted clarity in the contract terms. The concept was that the reimbursement would

be a one-time payment. Claimant was putting in the improvements for the State because the State did not want to put them in. The State could not put the improvements in as fast as Claimant because the State has certain legal procedures it must follow that a private company would not have to follow. Mr. Obrock felt that this was an accommodation for the State and that it was a side agreement to the basic contract. Claimant was going to be the architect and the engineer on the project. Claimant was going to prepare all the documents describing the scope of the work. Claimant then would oversee the construction.

Claimant prepared the technical documents at the CDB's direction. CDB monitored and approved what Claimant was putting into the project. On March 7, **1984,** Mr. Obrock met with DOC, CDB, and the State's design team on the project. The State made suggestions as to what should be done to the building and Claimant may or may not have agreed to the suggestions, depending on feasibility. He believed the State did cost estimates but they would not tell Claimant what they were. Section 72 of the lease stated that after execution of the lease by all parties on February 29, **1984,** Claimant would prepare detailed itemization and allocations of costs to the lessor and lessee for the improvements. The lessee would approve or disapprove the itemizations or enter into negotiations with Claimant regarding cost adjustments within **14** days. Claimant believed the meeting of March 7, **1984,** satisfied this contract requirement even though no one complete document that included all specifications for improvements and cost allocations was ever presented by Claimant to the State.

Mr. Obrock believed the on-going discussions with the State as the project developed and as the costs estimates

evolved stood as satisfaction of the contract contingency. Mr. Obrock believed everyone knew the costs and that they were $1,600,000 to $1,700,000. However, Mr. Obrock admits the State never said they agreed or disagreed. The State never said these costs were accepted or rejected.

Claimant did prepare detailed drawings describing the scope of the work, The drawings were continuously updated until the bids were solicited. The State went over the drawings and specifications and checked off everything and made additions thereto. When the bids came in, they were very close to the $1,700,000 estimate.

Mr. Obrock testified that no one from the State ever asked for a single document that itemized the costs and the allocation of costs on the project. He believed the continuous interaction with the State, that by doing everything the State told them to do, and by acting in good faith, that Claimant was performing the contract. While they would not know the exact costs of the project until the bids came in, they did have budgets they expected to meet.

After the bids came in and Claimant had the actual costs, Mr. Obrock intended to sit down with representatives of the State and go over the costs and the contractors selected and obtain the State's concurrence. He was never able to do this. The State officials would not return his calls. Claimant was ready to proceed with the renovations but the State would no longer fund the project.

Mr. Obrock testified that the demolition phase was begun by Claimant based on the word of Michael Lane, Director of DOC. According to Mr. Obrock, Mr. Lane told Claimant that he had signed the lease, the money was in place, and to get on with it. The building had

36,000 square feet in it. It was long and narrow and had many windows. It fit the State's needs very well. The building, however, had to be converted from a laboratory research building into a dormitory. All new air conditioning, all new mechanical, and all new electrical wiring had to be put in. In the demolition phase, Claimant stripped all of the utilities out. All of the exterior windows had to be taken out and many other portions of the building were removed, including walls and part of the roof.

The State, at some point, did an inventory to see if everything had been done in the demolition phase according to what the State wanted. The demolition phase went from March to May. The renovations would have taken 90 to 120 days if the project had proceeded.

Raymond V. Lunte, a real estate appraiser, testified for Claimant. He did two appraisals of the property. One was as of March 31, 1984, and the other was for July 1, 1987. For the 1984 appraisal, Mr. Lunte assumed a five-year lease of the building as a correctional institution and that the lessee would buy the property at the end of the five-year lease pursuant to the terms of the lease rather than for the State to continue to rent the property. The appraiser's conclusion using these assumptions was that in 1984 the property was worth $970,000. The second appraisal as of July 1, 1987, showed a gutted building in a very poor condition. In this appraiser's opinion the building had no value. He believed it would cost more to renovate the property than it would be worth. He further believed the land value was not enough to warrant the destruction of the building. The appraiser admitted that the area where the Alcoa Building was located was a depressed area with low property values.

The State's witnesses were Wally Claypool who was

with CDB at the time in question, Vito Stallone of CMS, Dan Bosse of DOC, Jack Hutchison of DOC, and William Barham of DOC.

Mr. Claypool supervised the survey unit of CDB. He would support the construction function of CDB and provide technical assistance to other agencies by conducting field surveys of existing buildings and evaluate the scope of work on the buildings. He evaluated the Alcoa Building. DOC had proposed to use that site as a place to house prisoners in a minimum security work release setting to alleviate prison overcrowding. He looked at the building to see if it was feasible to use the building for that purpose. His unit created suggestions for ways the building might be altered to fulfill that purpose. Prior to the March 7, 1984, meeting they had prepared a floor plan sketch for the project.

While he was involved in the project it was only at a very preliminary stage. It had not been given the status of a construction project by the State. If the project had inoved from the survey phase to the construction phase, it would have gone through a whole design process and been reviewed by a different unit. According to Mr. Claypool, this project never left the preliminary phase. It never moved into the design phase as it never left the survey preliminary sketch form. However, Claimant's Exhibit No. 87, the sketch, has design phase labeled on it by CDB. Mr. Claypool approved the document with "design phase" written thereon. He could not explain this discrepancy in his testimony.

After the February 7, 1984, meeting it was Mr. Claypool's understanding that CDB would have no more involvement in the project. DOC could have gone ahead

with the project. He would, however, have been advised if DOC was going ahead with the project.

Vito Stallone was with CMS. He leased office and warehouse space for the State of Illinois. He was involved in negotiating the lease terms for the Alcoa Building. He drafted the first draft of the lease on or about February 10, **1984.** The final lease was signed March **22, 1984.** The lease required the Claimant to do an extensive amount of renovation. The lease was contingent so that the State could get out of the lease. This was because the lease was agreed upon in one day and because it was an unusual lease for the State because of the extensive renovations required and the uncertainty of the costs. The lease was written so that the State had an option to terminate the lease if the State did not want to expend the amount required to make the renovations. Therefore, the lease had a contingency that provided for approval by both directors of DOC and CMS at a later date after they received the costs for the renovations involved.

The contingency was to protect the State on the costs of renovations. The lessor was to provide the State with a document showing the costs before any commitment from the State to go on with the contract. CMS never approved the costs. CMS never received any written bids or written proposals on costs from Claimant. Vito Stallone testified that he specifically told William Obrock that the contract was contingent on funding by the legislature. In Mr. Stallone's opinion this was not a contract to lease a building as is and then fix it up, but a contract to lease a building in turnkey condition.

The Claimant, as owner, was responsible for putting the building in turnkey condition. Mr. Stallone disputed the amount of demolition alleged by the Claimant, testifying

that the peeling paint had not been removed, a big boiler had not been removed, an air handling unit and some light fixtures had not been removed. All of these things should have been removed during the demolition phase.

As to the amendments in paragraphs 69 and 72, Mr. Stallone's interpretations differed from those of Claimant. Under the State's accounting system, the State considered the lump sum reimbursement for leasehold improvements to be rent. These leasehold improvements were to be paid from funds appropriated to DOC. Mr. Stallone testified that these funds were not in place at the time the lease was signed. Mr. Stallone testified that he had conversations with Mr. Obrock of Claimant where he made it clear this whole contract was subject to legislative appropriation. However, Mr. Stallone had to admit on cross-examination that the State documents initiating this project indicated that DOC had already received funding for proposed work release centers. Mr. Stallone further claimed that the amendment to paragraph 69 was at the request of lessor solely to accommodate lessor's income tax situation.

Upon review of Mr. Stallone's file on the case during trial, Exhibit 8A was located which was a survey of the project. Exhibit 8A had dollar amounts thereon and showed an estimated projected cost for the project at $1,740,000. The dollar figures appear as of January 3, 1984. The final lease was sent by Mr. Stallone to Mr. Brent of Claimant for signatures on March 16, 1984.

The records of Mr. Stallone indicate the Claimant would not agree to pay for any improvements. Therefore, an option clause was agreed to which enabled the State to purchase the building for a predetermined amount and thereby recover the benefits that might exist from improvements extending beyond the normal lease term. The State was anticipating paying for the improvements.

Dan Bosse was the manager of the Capital Programs Unit for DOC. In 1983 the Illinois Supreme Court struck down the manner in which DOC was granting meritorious good time to prisoners. Therefore, the need for prison space greatly increased. DOC started looking for bed sites, including new work release centers. For the project at the East St. Louis location he never saw more than preliminary plans. The survey plan done by CMS was requested by DOC. If there had been DOC involvement in construction he would have been involved in it. He was never involved in any such construction.

John Hutchison was the deputy director for administration and planning for DOC in 1983 and 1984. He supervised the fiscal, accounting, and funding units of DOC. In 1984 community correctional centers were to be funded from one of two lump sum appropriations. This was not a part of the State's capital budget but was from a separate appropriation for these community correctional centers. The State did not spend all of this appropriation for 1984. The DOC sought a reappropriation of these funds in 1985. However, there was opposition in the legislature for the East St. Louis project. The legislature actually included language in the reappropriation that excluded any development of community correctional centers in St. Clair County and this specifically prohibited DOC from continuing the East St. Louis project at the Alcoa Building.

Mr. Hutchison never saw any plans or specifications for construction of the East St. Louis project and any such documents would have come to him. He did not recall ever receiving even a disputed bill for construction or renovation at that site. The State looked at dozens of sites for work release centers. The State had only originally

appropriated $4 million and there was not enough appropriated to fund all the sites being looked at.

Mr. Hutchison believed the State had a lease with Claimant that said once New Life completed their specifications and had bids that New Life had to come back to DOC for approval. This was so DOC would know what the construction costs of this project would be so that DOC could plan these costs into DOC's spending for the year. Even if Michael Lane, the Director of DOC, had told Claimant the money was available for the renovations, there still had to be a contract and DOC would only act in accordance with the contract. Under the lease with New Life, for DOC to approve vouchers for payment, the contract would have had to be completed by New Life bringing in the actual bids. For the vouchers to have been approved for payment, they would have had to have been submitted by June 30, 1984, because after that time they would have been disallowed for any new bids in East St. Louis, Illinois. In this case the legislature took the unexpended 1984 appropriation and reappropriated it for 1985 with the exclusion for St. Clair County.

William L. Barham of DOC was in the Capital Programs Unit. He viewed the Alcoa Building about 20 times in 1983-1984 over a period of several months beginning in December of 1983. His purpose was to go over the building to see what would be needed to remodel the Alcoa Building for use as a community correctional tenter and work out a floor plan, He worked with CDB people to work up specifications. He never supervised anything or directed Claimant to do anything. He did recall Claimant ripping out unneeded plumbing, piping, and other unneeded parts of the building. The people working on this demolition were not working for the State. The State people changed the floor plan in their own

mind a dozen times as they looked at the building. There would have had to have been some demolition before the renovations could begin.

Douglas A. Brown also testified, pursuant to an evidence deposition. In **1983-84** he was deputy director for community services of DOC. He ran the State's community corrections programs. Mr. Brown initialed the final lease which laid out the conditions under which the State would lease the Alcoa Building. His responsibility was to work with the Claimant to get the building in shape for a work release center assuming everyone could cross all of the proper legal boundaries. He also was responsible for trying to obtain community support for this work release center. At the February meeting and at the news conference announcing the center, no approvals were ever given by the State to the owners for any work. **All** the State **was** doing was signifying its intent to be in an acceptable building at an acceptable renovation price. According to Mr. Brown, who now works in Maryland, the March 7 meeting in Springfield ended with an agreement in general terms as to the items that would have to appear on a final plan for renovation which Claimant was to supply DOC in the future. CDB had given technical assistance in preparing a survey of what would have been required for the correctional center and a cost estimate. CDB had no further involvement. CDB would have been involved later on as technical advisers if Claimant had presented a final proposal and cost budget for review by the State. At the March 7, **1984,** meeting, no approval was given by the State for construction or construction plans. Mr. Brown was very familiar with paragraph 71 of the lease. In the event New Life had submitted materials to DOC for approval under the contract, the documents first would have gone to the people in the capital development section of

DOC who would have obtained technical advice from the CDB. The documents then would have come to Mr. Brown for approval before he would have sent it to Director Lane of DOC with a recommendation for approval or disapproval. Mr. Brown never received any final plans and specifications from Claimant.

The State was looking at many sites for new prison beds. There was a lot of competition for the money that was available. The State required final cost approval to look at cost per square foot to determine if the project was acceptable and consistent with the cost per inmate they would have expected *to* use in any correctional facility. Mr. Brown testified he never told Mr. Obrock on February 29, 1984, to begin demolition work. He testified he would not do so because CMS had not signed on the contract. CMS did not sign on the lease until March 22, 1984.

Of the $4 million originally appropriated for community correctional centers, about $2 million was never used for these projects.

Mr. Obrock testified in rebuttal that Mr. Brown told him to proceed with the demolition at the time of the press conference on February 29, 1984, or they would never finish the renovations by September of 1984. Mr. Brown assured Mr. Obrock the funds were available according to Mr. Obrock. Mr. Obrock further testified they did submit Exhibits 29, 30 and 31 as final cost and specifications to the State prior to June 18, 1984. The documents were sent to Pat McNanamon and Wally Claypool of the State. Mr. Brown testified he never saw these plans and specifications that Claimant says they produced.

***The Law***

For all of the involved testimony, the numerous exhibits, and the extensive briefs, this case comes down to a simple case of contract construction. This case is also a primer on how to deal with the State on a construction project. Anyone who deals with the State has to understand that you do not work on a handshake. Every "i" must be dotted and every "t" crossed. Whether it was wishful thinking or pure naivete, Claimant did not follow the letter of the contract but only the spirit. Under the present state of the law, that is not good enough. The written contract prevails here. Claimant's position that an oral contract or implied contract exists must fail as this is not a contract of an emergency nature. ***Melvin v. State*** (1989), **41** Ill. Ct. Cl. 88.

One can see easily the situation from the Claimant's point of view. They have a building with $125,000 into it in a depressed area in **1983.** The State comes along and wants to rent and possibly buy the building. Claimant sees a five-year lease and a probable sale at a nice profit. The problem comes in with the renovations. Claimant would rather not do the renovations but the State talks them into it. The State does not renovate buildings it does not own. It is faster for Claimant to do the renovations because the State has so many rules, regulations, and statutes to follow in order to build. Everyone wants the lease going by September of 1984. Everyone also tries to protect themselves. The Claimant does not want to pay income taxes on the renovations so the repayment is not called rent. The State puts in a double contingency. The State can terminate the lease if the legislature does not appropriate funds. The State also put in provisions as follows for the second contingency:

"71. This lease is contingent upon written approval by the Director of the Department of Central Management Services and the Director of the Department of Corrections of the Lessee's share of the total cost of this project.

It is further agreed that if said approval is denied then the Department of Corrections shall reimburse the named Lessor for one-half the costs incurred for architectural and engineering fees, in an amount not to exceed $32,000.

**72.** Paragraph One of Article 71 above shall be interpreted as follows. After execution of **this** lease by all parties, **Lessor** shall prepare firm costs for the necessary improvements with detailed itemization and allocation of costs to Lessor and Lessee. Lessee shall within fourteen days of receipt either approve, disapprove, or enter into negotiations with lessor regarding cost adjustments. If approval is not given initially or after negotiation, this lease shall end immediately without penalty or obligation to either party except as provided in the second paragraph of Article 71. No reason for disapproval need be given."

Public Act 83-1199 which took effect July 1, 1984, officially ended this project. The legislature specifically stated,

"No funds reappropriated pursuant to this section or appropriated pursuant to Section 8 shall be used for the expansion of existing, or the development of new community correctional centers located within St. Clair County"

In construing this contract and determining the intentions of the parties, the instrument must be considered as a whole. (*McDonnell-Douglas v. State* (1984), **36** Ill. Ct. Cl. 46.) It is undisputed by the evidence that the Director of DOC and the Director of CMS never approved the State's share of the total cost of the project in writing. These dual signatures were an important contingency in the lease to protect the State. The lease itself, as argued by Claimant, could not be the written approval because the interpretation of the clause specifically calls for written approval after the lease was signed and after firm costs for the project with detailed itemization were served on the State. There is some dispute on whether costs and specifications were given to the State and whether the State was aware of the bids from the bid opening ceremony, but that makes little difference in this

case because there was never any proof of acceptance in writing. The Claimant failed to prove it prepared final firm cost figures and served them on the State by something as simple as a return receipt. The evidence is clear that absent written approval by the two directors, the State could terminate this lease as to the renovation reimbursement without additional penalty because the State was protected by both contingency clauses.

The rights and obligations of the parties are to be determined from the plain, unambiguous wording of the contract. There can be no oral modification of the clear terms of the contract without the consent of both parties to the contract. (*Hoel-Steffen v. State* (1983), 35 Ill. Ct. Cl. 108.) Claimant seeks an equitable remedy in this Court or in the alternative **asks** this Court to find compliance with the contract terms based on substantial compliance.

While the evidence is contradictory, it is not hard to fathom the State official urging Claimant to move quickly on this project and assuring Claimant funds were in place. However, the law is clear. The representatives of the State could not bind the State based on their actions. (*Bellini v. State* (1982), 35 Ill. Ct. Cl. 701.) It is a well-settled principle of law that in dealing with an agent of the State one must ascertain at his peril the authority of the agent and the mere assertions of the agent are not sufficient to bind the State. ***(Melvin v.*** *State* (1989), **41** Ill. Ct. Cl. 88.) Under the law, if the officials urged Claimant to start demolition, Claimant should have just said no. **A** handshake and statements that funds are in place were not good enough to rely on in the face of the written contract contingencies. Implied contracts are not favored by this Court. ***(Edwards v. State*** (1989), **42** Ill. Ct. Cl. 116.)

It is a sad but true commentary. Because Claimant never received written approval of firm costs to bind the State to pay, the State could terminate the contract for any reason without additional penalty, Claimant's only recovery was the $32,000 for architectural and engineering fees for which Claimant has been paid by the State.

Even Mr. Obrock admits Claimant wasn't to be paid for the renovations until the State moved in. The State never moved in and properly so. Claimant concedes in its brief that they have no claim for rent. It is also difficult to find substantial compliance when there is no proof the State ever received firm costs with itemizations and allocations and the Claimant never did move on to the renovation stage.

While it is true that the Claimant acted by doing some demolition to its building, which at the time may have benefitted the State, and while it would be easy to be sympathetic to Claimant's situation, there is a long line of cases which hold that Court of Claims jurisdiction does not encompass equitable remedies such as *quantum meruit.* In this respect the Court of Claims differs from courts of general jurisdiction. Persons dealing with the State are held to whatever terms the legislature may impose. The result of these limitations may be seen as harsh in some instances, but the legislature has not authorized the Court of Claims to act otherwise.

The Claimant has failed to prove the State breached the lease. The State bargained for and received two contingencies in the lease and used them both to validly terminate the lease. It is unfortunate that the Claimant is left with this building in the condition it is in, but the Claimant chose to proceed with demolition work without the two written approvals required by the clear wording of the contract.

The one mitigating factor for Claimant is that the loss to Claimant does not appear to be nearly as great as the appraiser's testimony indicated. It is hard to fathom that a building purchased in 1979 for $100,000 could become worth almost $1 million in 1983 in a depressed area. The appraiser's assumption of a completely renovated correctional center to reach his value is not well taken. Be this as it may be, the Claimant did have some loss but loss that is not compensable in this Court.

*Conclusion*

For the foregoing reasons it is hereby ordered that this claim be, and hereby is, denied.

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(No. 86-CC-0028—Claimant awarded $50,000.)

ALONZO JONES, Claimant, *v.* THE STATE OF ILLINOIS, Respondent.

***Opinionfiled May 17,1993.***

JAMES P. CHAPMAN & ASSOCIATES, for Claimant.

ROLAND W. BURRIS, Attorney General (STEVEN SCHMALL, Assistant Attorney General, of counsel), for Respondent.

PRISONERS AND ***INMATES—state owes duty to provide inmates with safe working conditions and proper safety equipment.*** The State owes a duty to inmates of its penal institutions to provide them with safe working conditions under which to perform their assigned work and to **provide** them with proper safety equipment to complete their assigned tasks.

SAME—*negligence—inmate* ***injured while operating table saw—State liable.*** Where, prior to the Claimant inmate suffering a severe hand injury while operating a table saw pursuant to his job responsibilities within the prison, State personnel failed to regularly monitor or maintain the equipment, or advise the Claimant regarding the need to use an adjustment screw on the device to insure its stability, the State was liable for its failure to provide safe

working conditions and proper equipment and training **for the** Claimant, and he was awarded $50,000.

## OPINION

PATCHETT, J.

This cause comes before the Court upon a claim brought by Alonzo Jones, a 51-year-old inmate at the Stateville Correctional Facility. The Claimant suffered severe injuries to his left hand on July 31, 1986, while operating a table-saw pursuant to his job responsibilities within the institution. Claimant contends the State failed to inspect and maintain the table-saw involved, even though it had notice of **its** dangerous condition, and further, that the State failed to provide proper training to the inmates who operate the saw.

On the date of the incident, the Claimant was constructing new legs for a wooden desk. He had reported **to**

the carpentry foreman, correctional employee Paul Bredesen. Mr. Bredesen and the Claimant discussed the Claimant's plans to construct the legs. Mr. Bredesen then provided a number of dado blades to the Claimant. Dado blades are designed to cut grooves into wood at varying depths. When a closed-end groove is being created by these blades, the shield that normally protects the operator's hands cannot be used because the hands are on the wood. The wood is stabilized during its movement over the dado blade by what is called a rip fence. The rip fence on the saw involved had a lever to lock it into place and also an adjustment screw. The Claimant testified that he was unaware of the adjustment screw.

Prior to the incident, the Claimant had extensive experience with table-saws beginning with classes he took in high school, This experience continued in cabinet and construction work prior to the time he was incarcerated. The Claimant had used this particular saw hundreds of times and had made numerous dado cuts. On each occasion, he testified that he used the same technique which he employed on the date of the injury. Further, all the other personnel in the prison shop, including State employees, used the same method.

On the date in question, the Claimant had made 11 prior passes using the blade, and on the last pass the wood moved, causing his hand to be dragged across the blade. This resulted in extremely serious injuries to the Claimant's left hand.

The State owes a duty to inmates of its penal institutions to provide them with safe working conditions under which to perform their assigned work. (*Hammer v. State* (1987), 40 Ill. Ct. Cl. 173.)Further, the State has a duty to provide inmates with proper safety equipment to complete

their assigned tasks. (***Tucker v. State*** (1989), 42 Ill. Ct. Cl. 72.) We feel that the State did not meet its duty with regard to the Claimant in this situation.

First of all, the inherent nature of the equipment rendered it extremely dangerous to any individual. Secondly, the rip fence on this saw required the adjustment of a screw to insure its stability. Repeated use of the saw would loosen the rip fence. The State's failure to monitor the rip fence on a more regular schedule can be characterized as a contributing factor to this accident. It was only after the accident that an employee of the State commented to the Claimant about the need to use the adjustment screw.

It is the opinion of this Court that the State failed to provide the Claimant with safe working conditions and safe equipment, and failed to sufficiently instruct him in the proper operation of the woodworking equipment in question. This Court has consistently held that under such situations, there is liability on behalf of the State to the inmate who was injured. ***McGee v. State*** (1977), 31 Ill. Ct. Cl. 326; ***Moore v. State*** (1951), 21 Ill. Ct. Cl. 282; ***White v. State*** (1987), 39 Ill. Ct. Cl. 175; ***Burns v. State*** (1982), 35 Ill. Ct. Cl. 782; ***Hughes v. State*** (1984), 37 Ill. Ct. Cl. 251.

For the reasons stated, we award this Claimant the sum of $50,000.

(No. 86-CC-0286Claimant Allied Van Lines and Ray Houlette awarded $22,984; Claimant Ray Houlette awarded $5,780.)

**ALLIED VAN LINES** and **RAY HOULETTE**, Claimants, *v.*
**THE STATE OF ILLINOIS,** Respondent.

Opinion *filed July* **23,1992**

BRESNAHAN, GARVEY, O'HALLORAN & COLEMAN, for Claimants.

ROLAND W. BURRIS, Attorney General (JOHN R. BUCKLEY, Assistant Attorney General, of counsel), for Respondent.

NEGLIGENCE—*Claimant's* burden of *proof,* The burden of proof in a negligence case is on the Claimant to prove by a preponderance of the evidence that the State was negligent and that such negligence was the proximate cause of the Claimant's damages, and the Claimant also has the burden of proving the damages alleged.

HIGHWAYS—*damage* to jackknifed tractor *from* snowplow — Claimants prooed State's negligence. The Claimants, a tractor owner and a company which leased the tractor, met their burden of proving that the State negligently damaged the vehicle as it lay stoppecl after jackknifing on the highway, where the evidence showed that a State employee drove a snowplow into the jackknifed tractor two times, causing damage to the vehicle's front end which it had not sustained prior to the snowplow's impact.

DAMAGES—*disabled tractor struck by snowplow—Claimants* awarded compensation *for replacement value* of *tractor* and lost *profits.* In a claim arising out of a State employee's negligence in ramming a snowplow into the Claimants' disabled tractor, the Claimant owner was awarded compensation for lost profits during the period when the vehicle was being repaired, and both the owner and the company which was leasing the tractor at the time of the collision were awarded damages for the replacement value of the tractor since, despite the State's claim that replacement of the vehicle was not required, the State failed to adequately dispute the testimony of the Claimants' expert.

## OPINION

FREDERICK, J.

Claimants, Allied Van Lines and Ray Houlette, filed their first amended complaint sounding in tort pursuant to section 8(d) of the Court of Claims Act (Ill. Rev. Stat., ch. 37, par. 439.8(d)), on June 4, 1987. The complaint as

to Allied Van Lines alleges the State negligently damaged the 1984 Kenworth tractor owned by Claimant, Houlette, when a snowplow of Respondent collided with the aforesaid tractor as the tractor was stopped, jackknifed, on Interstate **74.** The claim of Ray Houlette was for lost profits due to the inability to use the 1984 Kenworth tractor while it was disabled and being repaired. The cause was tried by the commissioner assigned to the case.

The Claimants have filed their brief. The State failed to file its brief. The Claimants filed a motion for judgment on the evidence based on Respondent's failure to file a brief. That motion is denied. While it would have been helpful for the State to have filed a brief, such failure to file a brief in and of itself is not grounds for a judgment against Respondent on the merits. ***(Spencer v. State*** (1983), 36 Ill. Ct. Cl. 216.) Because the case has been tried, the Claimants have filed their brief, and the commissioner has rendered his report, the Court will rule on the merits without waiting for and having the benefit of Respondent's position. We feel that this approach is fair to the Claimants and not unduly harsh on the taxpayers of the State of Illinois. The People of the State of Illinois should not have to suffer because of the failure of Respondent's attorney to file a brief even after that attorney sought an extension of time to file a brief.

***The*** *Facts*

Allied Van Lines, Inc., leased a 1984 Kenworth tractor. This tractor was leased to Allied Van Lines by Claimant and driver, Ray Houlette. The tractor had been purchased six months prior to the date in question **by** Claimant, Houlette, for approximately $75,000. Houlette then drove the tractor for Allied.

On February 12, 1985, **Mr.** Houlette was traveling east on Interstate 74. Due to poor weather conditions, he

lost control of the truck and the truck jackknifed, ending up on the side of the road near milepost **34.** Claimant Houlette exited the tractor and entered a State Trooper's vehicle. Shortly thereafter a snowplow owned and operated by the State of Illinois, while plowing snow, struck the Claimant's tractor, backed up, went forward again and struck the tractor a second time. The second impact violently lifted the tractor's front wheels off the pavement, Prior to this collision, there had been no damage done to the tractor. When the truck jackknifed, the tractor sustained damage to the fuel tank. The damage caused by the snowplow was to the front and front right of the tractor.

The tractor was taken to Schmitt Truck Repair for the repairs. The tractor was unavailable for use for 48 days. Using the three months' income prior to the collision and the three months' income after the tractor was returned, Mr. Houlette figured his lost profits at $158 per day. Claimant provided his tax return for 1985 to substantiate his figures. Claimant Houlette also paid an insurance deductible of **$250.** Charles Hope, a damage evaluator and appraiser for heavy equipment, testified as to dam**ages** for Claimant. He was licensed in Michigan as an appraiser and adjuster. He also did such appraisals in Illinois. He had done over 2,000 appraisals of damaged tractors prior to 1985. He had worked **13** years for Property Damage Appraisers, an appraisal business. In August of 1985, he opened his own appraisal business. The Kespondent had no objection to Mr. Hope testifying as an expert. In February of 1985, Mr. Hope evaluated the damages to Claimant's tractor. Mr. Hope found the damage caused by the snowplow to be **$28,234,** and the total damage, including the jackknife damage, to be $36,000. Claimant, Allied Van' Lines, seeks remuneration only for those damages caused by the snowplow in this case. Mr. Hope testified

he used the industry standards when computing damages to the tractor for parts and labor. Mr. Hope was of the opinion that the cab had to be replaced. This opinion was based on his observations of the tractor after the collision and the fact that many rivets had stretched and the truck was out of square. The cost to bring the cab back to square would have exceeded the cost of a replacement cab so he wrote his evaluation for a replacement cab which would then also be warranted by the factory for a full five years. The tractor had a full five-year warranty when purchased **six** months earlier.

Mr. Hope believed the dealer would have voided the warranty on the cab if the repairs he felt were appropriate were not made. The warranty requires that every panel that is damaged, buckled or stretched be renewed with factory rivets and with factory components. For this particular cab one would have had to take everything apart but the left door. Every panel had a stretch mark on it. Seventeen of 21 panels were damaged. Mr. Hope's exhibits did not include $1,000 for salvage value on the old cab and therefore Claimant's claim should be reduced by at least $1,000. Mr. Hope **was** not very clear on the amount of salvage value in his testimony.

Mr. Hope was of the opinion that the jackknife damage could have been repaired in four or five days once the parts were in. It would probably take a week to get the frame rail and fuel tank in from the factory. He believed a maximum of **13** days could be allowed for repair of the jackknife damage.

Mr. Hope believed that replacement of the cab was the most economical way to proceed. To replace every damaged part of the tractor would have cost **$18,000** or more and the replacement cab was $20,000. He believed

there may have been other hidden damages found and it could have easily taken 90 days to repair the tractor if the repair method had been used.

The repair method would have likely cost as much as the replacement method and with the replacement method, the owner received the warranty. Mr. Hope believed repairing the cab was necessary.

The exhibits indicate that Transport Indemnity Company paid $20,758 for collision repairs to Schmitt Truck Repair for the account of Allied Van Lines and Ray Houlette on February 28, 1985. An additional $15,392.53 was paid by Transport Indemnity Company to Ray Houlette and Schmitt Truck Repair on April 1, 1985, for collision loss and finally $120 was paid by Transport Indemnity Company on April 12, 1985, to Ziebart Auto-Truck Rustproofing. All three payments related to the February 12, 1985, collision, including the jackknife damage.

Russell Strand of GAB Business Services Incorporated testified as an expert on damages for Respondent. He has been an appraiser and claims adjuster for trucks and other heavy equipment for 27 years. GAB is an independent adjusting service. On February 26, 1985, he appraised the damage to Claimant's tractor. The appraisal took place at Schmitt's Truck Repair. Mr. Schmitt, the owner of the repair company, was present as was Mr. Hope. Mr. Strand could not understand why Schmitt and Hope felt a new cab was necessary. Mr. Strand testified that,

"A lot of times when you get into something like this where there is severe damage and it's a relatively new model and if there isn't a great deal of difference between the cost of repairing the cab and replacing it, I will go along with replacing the cab, but that wasn't the case here."

He was of the opinion that the impact by the snowplow was nowhere near severe enough to warrant replacement of the cab.

Mr. Strand was testifylng from a copy of his appraisal and his memory as his company had destroyed the office file earlier. He never anticipated litigation in this matter. If litigation had been indicated, the file would have been placed in their "do not destroy" archives.

Mr. Strand's investigation of the truck indicated the impact of the snowplow had been to the right front of the vehicle. There was some minor misalignment of the door opening. He felt the truck was not misaligned in any significant way. He saw no popped rivets or misalignment of the panels. This expert gave the opinion that repairing the cab was appropriate and would have returned the tractor to substantially the same condition as it was prior to the collision. He did not think that repairing the damage would void the warranty. Mr. Strand opined the damage from the snowplow impact was $2,400 and that repairing this damage would not distract from the value of the tractor as long as it was properly done. Mr. Strand was of the opinion that if the repairs he had advocated were properly done, there would have been no effect on the tractor warranty. Mr. Strand also believed the salvage value for the cab should have been $5,000. Mr. Strand believed the snowplow damage could have been repaired in four or five days. Mr. Strand was not aware that the snowplow had struck the tractor two times. The written appraisal prepared by Mr. Strand indicated that he received Mr. Hope's damage appraisal at the time he did his own appraisal. He was in "total disagreement" with the appraisal of Mr. Hope and proceeded to prepare his own damage appraisal after inspecting the vehicle. However, the report does indicate that as much as 30% of the jackknife damage could be attributed to the collision with the snowplow. The pictures provided by Mr. Strand do not show the areas of controversy, being the panels and rivets.

***The Law***

It is important to reiterate that a brief by Respondent would have been helpful to the Court. This is an adversarial proceeding and it is important that the Court have the position on the issues from both Claimant and Respondent. The Respondent has failed to file its brief even after requesting an extension of time to do so. This is disappointing because there are significant issues in this case.

It appears that the State is not contesting liability as no evidence was presented to indicate that the State contests liability. With no evidence and no argument presented by the State as to liability, we find that the Respondent is liable for the damages to Claimants.

The burden of proof in a negligence case is on claimant **to** prove by **a** preponderance of the evidence **that the** State was negligent and that such negligence was the proximate cause of claimant's damages. ***(Hoekstra v. State*** (1984), **38** Ill. Ct. Cl. 156; ***Johnson v. State*** (1983), **36** Ill. Ct. Cl. **276; *Neubauer v. State*** (1984), **36** Ill. Ct. Cl. **173.)** Claimants have met their burden of proof as the snowplow driver negligently drove into the jackknifed tractor *two* times, with the second impact being the more violent impact.

Claimants have the burden of proving their damages. ***(Harris v. State*** (1989), **41** Ill. Ct. Cl. **184.)** The evidence in this case on damages is very contradictory. The State's expert testified no cab replacement was required, the damages were **$2,400,** and the repairs could have been made in five days. He also testified the salvage value was $5,000. The Claimant's expert testified the cab had to be replaced, the damages were **$28,234,** the repairs took **48** days, and the salvage value was $1,000. While experts often disagree, the magnitude of difference in this case is substantial.

In this case the insurance company for Claimants paid for the new cab based on the appraisal of Mr. Hope. There was no evidence before the Court other than that he was a competent expert witness. The State did not object to his testimony or to his qualifications as an expert. The State's expert took the somewhat unusual step of reviewing Mr. Hope's appraisal before he did his own independent appraisal. He then looked for reasons to dispute the findings of Mr. Hope. However, there were no pictures or direct testimony as to the pictures which would have documented for the Court that the panel damage, rivet damage and misalignment problems found by Mr. Hope did not in fact exist. The Claimants are entitled to fair and reasonable compensation for the damages to the tractor caused by the State. (*Pugh v. State* (1973), 29 Ill. Ct. Cl. 124.) The Claimants have presented substantial evidence as to the damages to the tractor which has not adequately been disputed by Respondent. Claimant Houlette has proven his damages calculated on the basis of his income tax return which is a method that has been approved by this Court. *Guffey v. State* (1987), 40 Ill. Ct. Cl. 179.

Fair and reasonable compensation to the Claimants is as follows: Pursuant to Count I, for Claimant, Allied Van Lines, and Kay Houlette, with the monies made payable to Allied Van Lines, Ray Houlette and Transport Indemnity Company, the sum of $22,984. These damages are determined in the following manner:

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| Damages to tractor related to snowplow impacts with replacement of cab | $28,234.00 |
| Less salvage value | -5,000.00 |
| Less deductible paid by Claimant Houlette | - 250.00 |
| | $22,984.00 |

Pursuant to Count II,

Damages to Claimant, Ray Houlette:

| | |
|---|---|
| Lost profits—35 days at $158/day | $ 5,530.00 |
| Plus deductible paid by Claimant | + 250.00 |
| | $ 5,780.00 |

It is therefore, ordered, adjudged and decreed that Claimants, Allied Van Lines, Ray Houlette and Transport Indemnity Company are awarded $22,984 in full and complete satisfaction of Count I of the first amended complaint and Claimant, Ray Houlette, is awarded $5,780 in full and complete satisfaction of Count II of the first amended complaint.

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(No. 86-CC-0871—Claimant awarded $3,500.)

**IVAN BRANCH,** Claimant, *v.* **THE STATE OF ILLINOIS,** Respondent.

***Opinion filed August 31, 1992.***

SHELDON HODES, for Claimant.

ROLAND W. BURRIS, Attorney General (JANICE SCHAFFRICK, Assistant Attorney General, of counsel), for Respondent.

PRISONERS AND INMATES—***State's duty to provide inmates with safe working conditions and proper safety equipment.*** The State owes a duty to inmates of its penal institutions to provide them with safe working conditions under which to perform their assigned work and to provide inmates with proper safety equipment to complete assigned tasks.

***SAME—inmate injured in fall from shelving—award granted.*** An inmate who was injured when he slipped and fell from metal shelving covered with butcher paper while washing a kitchen ceiling was awarded $3,500 in damages as a result of the State's negligence where, despite the inmate's request, the State failed to provide him with a ladder to perform his assigned duties, thus requiring him to stand on an unsafe surface in order to complete the necessary task.

OPINION

**FREDERICK,** J.

This is a complaint sounding in tort and filed by Claimant, Ivan Branch, on October 31, **1985,** a prisoner of the Illinois Department of Corrections incarcerated at the Pontiac Correctional Center. He seeks damages for injuries he received on November **24, 1984,** while working in the officers' kitchen at Pontiac. The cause was tried by Commissioner Kane who has duly filed his report.

## *The Facts*

On November **24,1984,** the Claimant was an inmate at the Pontiac Correctional Center. Mr. Branch had a job within the institution which required him to work in the officers' kitchen. Included in his responsibilities were clean-up duties.

On the aforesaid date, the Claimant was told by the officer in charge of the officers' kitchen to clean the ceiling of the kitchen so that paint could be applied to the ceiling. The Claimant told the officer that he did not want to clean the kitchen ceiling, but Claimant was informed that he would probably get a disciplinary ticket if he did not do what he was told. He was also told that he would jeopardize his job within the institution if he failed to follow orders. The Claimant testified that he then requested a ladder. The State's witness could not dispute that statement.

There is no dispute that the ceiling in certain locations of that kitchen could not be reached by standing on the chair that was provided to the Claimant. While washing an area of the ceiling over the serving line, the Claimant stood on metal shelving which had butcher paper placed over it to protect it from the paint which would

eventually be applied. While Claimant was on this paper, he slipped and fell, landing on his head and chest, and was temporarily knocked out. Claimant was hospitalized at St. James Hospital in Pontiac and eventually went back to the infirmary at the prison. He was later placed on lay-in where Claimant was temporarily assigned to his cell for rest. Claimant had pain, suffered from dizziness, and he complained of back problems and blackouts since the November 24 incident. Claimant had difficulty walking and used a cane for two months. Claimant testified as to an incident in January of 1985 where he fell and broke his jaw, but the evidence is too speculative to relate to the November fall without some expert testimony showing a causal connection.

### *The Law*

The State owes a duty to inmates of its penal institutions to provide them with safe working conditions under which to perform their assigned work. *Hammer v. State* (1987), *40* Ill. Ct. Cl. 173; *Reddock v. State* (1978), 32 Ill. Ct. Cl. 611.

The State has a duty to provide inmates with proper safety equipment to complete assigned tasks. *(McGee v. State* (1977), 31 Ill. Ct. Cl. 326; *Tucker v. State* (1989), **42** Ill. Ct. Cl. 72.) In the present case, the absence of a ladder qualifies as a failure to provide proper equipment to perform an assigned task. Standing on a serving area in a kitchen which has been covered by waxed paper is not the safe method by which a person should attempt to clean ceilings. In the instant case, the Court finds that the State breached its duty to provide a safe work area with proper equipment for Claimant.

**As** we have done in many other cases, the Court

notes that prisoners and inmates ordinarily do not possess the freedom of choice inherent in doctrines of assumed risk and contributory negligence and the record herein contains no evidence of assumption of risk or contributory negligence. (*White v. State* (1989), 41 Ill. Ct. Cl. 166.) There was also no comparative negligence proven. *Douglas v. State* (1989), 41 Ill. Ct. Cl. 29.

Claimant had pain and suffering due to the State's negligence. Some back pain persists. The Claimant was hospitalized for the head and back injuries. He was rendered unconscious by the initial fall. The Court finds that Claimant was damaged in the amount of $3,500 due to the State's negligence.

It is therefore ordered that Claimant is hereby awarded $3,500 as his damages.

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(No. 86-CC-0892—Claimant awarded $65,604.)

BRISTOL STEEL CORPORATION, Claimant, *v.*
THE STATE OF ILLINOIS, Respondent.

***Opinion filed November*** 13, 1990.

*Order filed June 29, 1993.*

MCDERMOTT, WILL & EMERY (JOHN R. DOYLE, P.C., of counsel), for Claimant.

NEIL F. HARTIGAN and ROLAND W. BURRIS, Attorneys General (ERIN O'CONNELL and ROBERT J. SKLAMBERG, Assistant Attorneys General, of counsel), for Respondent.

STIPULATIONS—*contract for bridge construction—joint stipulation of parties—award granted.* In the Claimant's contract action arising from its provision and fabrication of a metal bridge for the State, although the State

had previously assessed liquidated damages against the Claimant for construction delays, the parties entered into a joint stipulation pursuant to which the Claimant was awarded $65,604 in full satisfaction of its claim.

## OPINION

**KAUCCI,** J.

This cause comes before us on cross-motions for summary judgment directed to Counts II and III of the complaint. We have considered the briefs and oral arguments of the parties. During oral argument, both parties stipulated that there were no contested material facts and that disposition by summary judgment was appropriate.

In April of 1979, the Claimant (then known as Mississippi Valley Structural Steel Company) entered into a contract with the Respondent's Illinois Department of Transportation (hereinafter IDOT) for the provision and fabrication of a metal bridge over the Illinois River in Pekin, Illinois. The contract price was $26,872,518. The contract provided that the bridge was to be completed within 300 working days.

The bridge was completed after 381 working days, with IDOT assessing 71 of the additional days as being the fault of the Claimant. Pursuant to a liquidated damages provision of the contract, IDOT assessed 71 days at $4,200 per day, for a total of $298,200 against Claimant.

Claimant has filed a three-count complaint. Count I, which is not involved in the instant motions, asserts that Bethlehem Steel Corporation supplied defective materials (and behind schedule) that resulted in a 39-working-day delay and an additional "57 day delay" in fabrication which resulted in a delay of the same time in completion of the bridge. Consequently, Claimant claims the $298,200.

Count II asserts that IDOT is entitled to liquidated

damages "only to recover any increase in engineering and supervision costs" as a result of the delay, and that the $298,200 withheld is not for such costs.

Count III asserts that the liquidated damages provision is a penalty and not enforceable.

A liquidated damages provision is not enforceable unless:

1. the amount so fixed is a reasonable forecast of just compensation for the harm that is caused by the breach, and

2. the harm is incapable or very difficult of accurate estimation.

See ***Bauer*** *v.* ***Sawyer*** (1956), 8 Ill. 2d 351,359,134 N.E.2d 329,333.

The affidavit of Russell H. Baker, chief accountant for IDOT's bureau of construction in the division of highways states that IDOT "had no way of projecting the additional engineering/supervisory costs" of delay.

The affidavit additionally sets forth the result of Baker's review of IDOT's records relating to the relationship of engineering/supervisory costs to total highway construction by contract costs. He states:

"The average percentage of engineering/supervisory costs of construction contracts in excess of $500,000 for the calendar years 1979 through 1982 *is* **4.61**%."

The Baker affidavit further establishes the per day cost of the 300-day contract at $89,575 ($26,872,518 ÷ 300).

A per day charge of $4,200 is 4.69% of $89,575. We conclude that $4,200 per day is a reasonable forecast of just compensation for the harm caused by the breach.

We further conclude that the harm is incapable or very difficult of accurate estimation.

Baker's assertions on the above matters are unrefuted.

The Claimant's motion for summary judgment should be denied. The Respondent's cross-motion for summary judgment should be granted.

Nothing in this opinion should be construed as reflecting upon the allegations of Count I.

It is therefore ordered that

1. Claimant's Motion for summary judgment is denied.

2. Respondent's cross-motion for summary judgment is granted, and Counts II and III are dismissed.

3. This cause is remanded to the commissioner for further proceedings on Count I.

ORDER

JANN, J.

This matter is before the Court upon the joint stipulation of the parties. This claim is founded upon a contract and is before us pursuant to section 8(b) of the Court of Claims Act. Ill. Rev. Stat. 1987, ch. 37, par. 439.8(b).

The Court finds that in April of 1979, the Claimant (then known as Mississippi Valley Structural Steel Company) entered into a contract with the Respondent Illinois Department of Transportation (hereinafter IDOT)

for the provision and fabrication of a metal bridge over the Illinois River in Pekin, Illinois. The contract price was $26,872,518. The contract provided that the bridge was to be completed within 300 working days.

The Court further finds that the bridge was completed after 381 working days, with IDOT assessing 71 of the additional days as being the fault of the Claimant. Pursuant to a liquidated damages provision of the contract, IDOT assessed 71 days at $4,200 per day, for a total of $298,200 against Claimant.

We note that the parties hereto have agreed to a settlement of this claim, and that Respondent, State of Illinois, has agreed to the entry of an award in favor of Claimant Bristol Steel and Iron Works, Inc., in the amount of $65,604. Sufficient road fund (011) money was available to cover the settlement.

Based on the foregoing the Court hereby approves the settlement and the Claimant Bristol Steel and Iron Works, Inc., is hereby awarded the sum of $65,604, in full and final satisfaction of the claim herein.

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(No. 86-CC-1183—Claimant awarded $12,500.)

JAMES LEFLER, Claimant, *v.* THE STATE OF ILLINOIS, Respondent.

*Opinionfiled May 17, 1993.*

HAMM & HANNA, LTD., for Claimant.

ROLAND W. BURRIS, Attorney General (VERNE DENTINO, Assistant Attorney General, of counsel), for Respondent.

**PRISONERS** *AND INMATES—inmate performing duties* ***under*** *direction of State* ***is*** *State's agent to extent of his functions.* When the State is assigned an inmate for duties under the direction of the State, he becomes the State's agent to the extent of his functions.

SAME—*swimming accident—State's negligence established—inmate awarded damages.* Where an inmate sustained neck and back injuries after diving into shallow water at a recreational lake, the State's negligence was established by evidence that an inmate who was assigned as a swimming instructor dove into the same area immediately prior to the Claimant, there were no signs warning people not to dive in from the shore, and the Claimant was not instructed that diving from the shore was prohibited.

## OPINION

**PATCHETT,** J.

This is a claim brought by a former resident of the Vienna Correctional Center for personal injuries he sustained on or about August **31,** 1985. **As** a resident of Vienna Correctional Center, he was taken to a swimming lake, where he and other inmates had recreation.

The facts are disputed as to any warnings which may have been given to the Claimant. The Claimant contends that he received no instruction that there **was** no diving allowed from the shore. The Respondent's swimming instructor claimed that the inmates were given this instruction by the bus driver or swimming instructor every time while en route to the recreational area. On this particular day, there were approximately **20** inmates on the bus.

The Claimant testified that this was the first time he went to the recreational lake; however, a swimming instructor, Stanley Davis, stated that the Claimant had been at the recreational lake several times. However, it is undisputed that the Claimant had been at the correctional center for less than a week, and no documentary evidence was offered by the Respondent to prove that the Claimant had been at the lake before.

It is also undisputed that Stanley Davis, the swimming instructor, was the first to dive in from the shore, and that another aide was the second person to dive in from the shore. The Claimant, who was the third person to dive in, struck his head and body on the bottom of the lake. There were no signs prohibiting diving from the shore. One of the swimming aides allegedly told the Claimant that he could dive from the shore from this one area.

Stanley Davis' testimony further verified that the Claimant did sustain an injury, Medical reports of the Respondent also demonstrate physical injury to the Claimant consistent with the accident. The Claimant experienced a compression fracture involving the C-7 vertebrae, associated with the widening of the disk space between C-6 and C-7. Respondent's doctors prescribed a cervical collar and limited activities, together with various pain medications over an extended period of time. Claimant testified that he continues to experience stiffness and soreness in the neck area, which is further aggravated by his present work.

Claimant may have been held to assume the risk if it had been "an obvious and ordinary risk." (*Fleischner v. State* (1983), *35* Ill. Ct. Cl. 799.) The State contends that the Claimant assumed the risk because it was a normal, obvious and ordinary risk, but at the same time the State admits that it did have notice that the water was too shallow for diving.

When the State is assigned an inmate for duties under the direction of the State, he becomes the State's agent to the extent of his functions. *(Goodrich v. State* (1984), *36* Ill. Ct. Cl. 326.) The fact that inmate Davis was assigned by the State as a swimming aide/instructor

and dove into the water immediately prior to the Claimant establishes by a preponderance of the evidence that the negligence of the State was a cause of the injury. In addition, there were no signs warning not to dive in from the shore. The State was further negligent in failing to provide warning signs, and failing to instruct the Claimant that there was to be no diving from the shore. This negligence was also the proximate cause of the Claimant's injuries.

Despite the fact that the Claimant had a compression fracture of the C-7 vertebra, and he continues to take pain medication, he is able to hold down a job requiring a significant amount of physical exertion. It is very difficult to quantify damages that the Claimant has suffered. However, we believe the State was negligent, and we award the Claimant the sum of $12,500 for his injuries.

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(No. 86-CC-1825—Claim **dismissed.)**

**MORRIS** UPTON and DEBORAH UPTON, Claimants, *v.*
**THE STATE OF ILLINOIS,** Respondent.

*Opinionfiled* ***May*** *29,1991.*

*Orderfiled* **December** *2,1991.*

Orderfiled **October** *5,1992.*

SPINAK, LEVINSON & ASSOCIATES, for Claimants,

ROLAND W. BURRIS, Attorney General (GREGORY ABBOTT, Assistant Attorney General, of counsel), for Respondent,

HIGHWAYS—*hazardous condition of* ***highway-what*** *Claimant must prove.* **The State is not an insurer** of **accidents that occur on its highways, and**

in order to recover, a Claimant must show that the condition of the highway was hazardous and the direct and proximate cause of the accident, and this must be proved by the preponderance of the evidence.

SAME—*automobile accident—falling concrete from bridge—lack of corroborating evidence—claim dismissed.* There was insufficient evidence in the Claimants' negligence action against the State to prove that the Claimants' personal injuries and property damage occurred when the Claimant husband lost control of their vehicle as a result of chunks of concrete falling on the car from a highway bridge overpass, where the Claimants produced no independent physical evidence, eyewitness testimony, photographs or repair documentation relating to the accident and, although the Claimants were given an opportunity on their motion for rehearing to produce such corroborating evidence, their claim was subsequently dismissed when they failed to appear.

## OPINION

**SOMMER,** J.

This claim was heard by Commissioner Turner on July 18, 1989, and heard in oral argument before the full Court on December 6, 1990.

At the hearing before the commissioner, the Claimants, the Uptons, testified as to a sequence of events which are described in the next few paragraphs.

On January 11, 1984, Morris and Deborah Upton were in their 1981 Buick Regal. Morns Upton was driving and Deborah Upton was a passenger in the front seat. The time was approximately 7:00 a.m., and they were on their way to Morris Upton's place of employment at Hines Hospital at Fifth and Koosevelt in Maywood, Illinois. The Uptons were driving east on the Eisenhower Expressway, also known as 1-290. When the car was in the middle of the Cicero Avenue underpass, a large piece of concrete approximately three or four feet long hit the front of the car. Several other pieces hit the hood and then hit the windshield causing the windshield to shatter. Mr. Upton lost control of the car and slammed into the guardrail. Both Morns and Deborah Upton were injured.

The Uptons did not notice anyone on the overpass at the time this incident occurred. Also, there was no construction taking place and there were no warning signs regarding any hazard. The car was greatly damaged on the left bumper, the headlights were broken and the front grill was gone. There were pieces of concrete from the bridge lying on the highway and a large piece of concrete was imbedded in the hood.

After the incident, Mr. Upton drove the car to a police station and made a police report. Mr. and Mrs. Upton took a cab from the police station to a medical clinic in their neighborhood where they saw a doctor.

Approximately 3½ hours later, Mr. Upton went back to the bridge with a lawyer. Mr. Upton saw pieces missing from the bottom of the overpass. Also, the debris was still on the highway. According to Mr. Upton, there was no plywood on the underside of the bridge. No pictures were taken of the overpass or the car.

The Claimants called Thomas Henry Warnock as a witness on their behalf. Mr. Warnock is a civil engineer with the Illinois Department of Transportation. From 1968 to the present, Mr. Warnock's duties have been to inspect bridges for the Illinois Department of Transportation. In 1979, he inspected the bridge which was the subject of this lawsuit and found that the bridge was in poor condition. In his report, he noted that the entire underside of the bridge was covered with plywood. The plywood was there to protect the cars traveling under the bridge from being struck by concrete which might fall from the deteriorating underside of the bridge, primarily at the longitudinal joints. In 1981, Mr. Warnock inspected the same bridge. He found the bridge to be in worse condition than in 1979. In his report at the time, Mr.

Warnock noted that pieces of concrete were breaking out at the longitudinal joints, but that plywood was underneath the bridge to prevent the concrete from falling on the cars below. Mr. Warnock inspected the bridge in 1983. He again found that the bridge was in poor condition and that plywood was on the bottom of the bridge to prevent pieces of concrete from falling on cars beneath the bridge. In 1984, the bridge was inspected by another employee of the Illinois Department of Transportation. This inspection found that the bridge was in poor condition at the longitudinal joints. In 1985, Mr. Warnock again inspected the bridge and found it to be in the same condition. Neither the 1984 or 1985 inspections mentioned the plywood.

Robert Thurmaier testified on behalf of the Respondent. He is a maintenance field engineer for the Illinois Department of Transportation. On July 29, 1985, he inspected the bridge which is the subject of this claim. He looked at the underside of the bridge. He found that there was plywood flush under the bridge deck, including the longitudinal joints. During his inspection he did not see any pieces of concrete missing from the bottom of the bridge. He stated that no patch work had'been done to the bridge after the incident involving the Uptons to the best of his knowledge. Further, he stated that the "force under my control, which is the bridge group" had done no patch work on the bridge.

The State is not an insurer of accidents that occur on its highways. In order to recover, a Claimant must show that the condition of the highway was hazardous and the proximate and direct cause of the accident, and this must be proved by the preponderance of the evidence. *Kavalauskas* ***v. State*** (1963), **24** Ill. Ct. Cl. 361.

This Court has before it only the Claimants' unsupported testimony as to how the damage occurred and the cause thereof. Such unsupported testimony is not sufficient in this claim, when weighed against the State's evidence, to establish by a preponderance of the evidence the Claimants' version of how the damage occurred and the cause thereof, and to extrapolate therefrom a finding that the State was negligent. The presentation of evidence in this claim is different from *Robinson v. State* (1981), 35 Ill. Ct. Cl. 185, a very similar case cited by the Claimants. In *Robinson, supra,* there were corroborating witnesses as to how the damage was caused, to the fact that pieces were missing from the underside of the bridge and to the fact that the plywood was missing.

In this claim the Claimants produced no independent eyewitness testimony of the mishap and its effects, no physical evidence, and no photographs of the bridge then or now, or of the damaged car to support their version of the facts. The Claimants did not produce an insurance estimate or other document from an auto repair shop to demonstrate that the car had been damaged in the manner they described. No explanation was given for the lack of any corroborating evidence. The lack of corroborating eyewitness testimony, physical evidence, repair documents or photographs is highlighted by the fact that hours after the accident, the Claimants returned to the scene with an attorney. No photographs were taken, and the attorney who went to the scene with the Claimants was not called to testify about what he or she observed.

The State of Illinois produced evidence that showed that, before and after the accident, plywood covered the underside of the bridge, flush against it, thus making it very difficult for any concrete to fall on the cars underneath the

bridge. There was no direct evidence that the plywood had been removed and then replaced during the intervening period, though the **1984** and **1985** reports did not mention the plywood while the previous reports had. In 1985, the bridge was inspected by Mr. Thurmaier and he testified that there were no missing pieces visible and no signs that patching had been done on the underside of the bridge. Mr. Thurmaier was in charge of the group that would have undertaken repairs, and he testified that no repairs had been undertaken and that the plywood was in place.

It is the finding of this Court that the Claimants have failed to prove their claim by a preponderance of the evidence. Therefore, it is ordered that this claim be denied.

## ORDER

**SOMMER,** J.

This cause coming to be heard on the request of the Claimants for a rehearing of their claim, due notice having been given, and this Court being fully advised in the premises, finds that in an opinion filed May **29, 1991,** this Court denied the present claim, and that the Claimants' request for a rehearing is timely under our rules. The claim was denied because the only evidence of the occurrence and the cause of the occurrence was the statements of the Claimants. There was no evidence in corroboration of the Claimants' statements.

We carefully examine requests for rehearings and have granted such when new evidence can prove a claim that lacks only the new evidence to be proved. ***(Anderson v. State*** (1957), **22** Ill. Ct. Cl. **413, 421.)** It is therefore ordered that the commissioner conduct an informal hearing and report to the Court as to whether new corroborating

evidence is genuinely available and whether such could change the conclusions of the Court in its opinion filed in their claim.

ORDER

SOMMER, J.

This cause coming to be heard on the order of this Court dated December **2,** 1991, in which this Court granted the Claimants an opportunity to present additional evidence, due notice having been given, and this Court being fully advised, finds that the Claimants failed to appear at the hearing set by the commissioner and no explanation of such failure to appear was given by the Claimants. It is therefore ordered that the order of December 2, 1991, is revoked and this claim is dismissed.

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(No. 86-CC-2761—Claimant awarded $2,500.)

DARRYL CHIESTDER, Claimant, *v.* THE STATE OF ILLINOIS, Respondent.

*Opinionfiled March **30, 1993.***

JAN SUSLER, for Claimant.

ROLAND W. BURRIS, Attorney General (JOHN R. BUCKLEY, Assistant Attorney General, of counsel), for Respondent.

PRISONERS **AND** *INMATES—state owes duty to prisoners to maintain safe workplace.* The State owes a duty to prisoners employed by the prison to maintain **a** safe workplace.

*SAME—Claimant suffered broken ankle while working in drainage ditch—State liable.* In an inmate's claim seeking compensation for lost wages, bodily pain and mental anguish as a result of fracturing his ankle while cutting weeds in a drainage ditch, the State was liable for breaching its duty to maintain a safe workplace and the Claimant was awarded $2,500,

where the inmate had expressed concern about the potential hazards of working in the ditch but was ordered to do so in any event.

## OPINION

**BURKE, J.**

On May **24,** 1985, Claimant was an inmate at Stateville Correctional Center when prison employees ordered him to cut weeds in a drainage ditch despite Claimant's protest that the working conditions were unsafe. While cutting the weeds, Claimant suffered a fractured ankle and seeks compensation for lost wages, bodily pain and mental anguish. He bases his claim for $30,025 on the following:

1. *$25* for two months lost from his prison job assignment.

2. $5,000 for loss of future earnings from not being able to return to his occupation as a maintenance man after his release from prison.

*3.* $10,000 to compensate for the injury to his ankle which he claims will prevent him from ever running, climbing or exercising without pain.

**4.** $15,000 to compensate for bodily pain and mental anguish.

The evidence showed that Claimant suffered an injury to his ankle on May 24, 1985, had his ankle placed in some type of cast, was given medication for pain and ordered to use crutches when walking.

Claimant relied upon a number of cases where the Court held that the State was negligent in failing to meet its duty to provide safe working conditions. *(Morris v. State* (1959), *23* Ill. Ct. Cl. 91; *Reddock v. State* (1978), 32 Ill. Ct. Cl. 611.) These cases do not support Claimant's position.

In *Goodrich v. State* (1984), *36* Ill. Ct. Cl. **326,** a prisoner was injured after being thrown from a pick-up truck which he was ordered to ride in after a prison picnic. The Court found that the State, through its agent, was negligent and the Claimant was entitled to an award because of his relationship to the supervisor and his situation as a prisoner. The prisoner had no real choice but to follow orders. In *York v. State* (1981), *35* Ill. Ct. Cl. *67,* a prisoner was burned over his face and hands when a stove he had to light during his duties as a prison cook exploded. In this case, the State conceded that it failed to maintain the oven in a safe condition and that its negligence was the sole and proximate cause of the claimant's injuries. The Claimant, in the case at bar, claims the State's failure to keep the workplace (the drainage ditch) in a safe condition was the proximate cause of his injuries.

The Court has long held that the State owes a duty to prisoners employed by the prison to maintain a safe workplace, whether that workplace is a workshop, a kitchen or a drainage ditch. Claimant expressed concern about working in the ditch and **its** potential hazards, but was ordered to proceed. Fearing disciplinary measures for failure to follow orders, the Claimant entered the ditch and performed the work **as** instructed. **As** a result, he sustained an injury to his ankle. The State breached its duty in not providing a safe workplace for the Claimant.

The Claimant received medical attention for his injuries and the required time off to allow him to recuperate. His claim of *$30,025* is not substantiated by the evidence.

It is hereby ordered that the Claimant **is** awarded $2,500 in full and complete satisfaction of this claim.

(No. 86-CC-3299—Claimant awarded $141.79.)

ROBERT C. LINDSEY, Claimant, v. THE STATE OF ILLINOIS, Respondent.

*Opinion filed February 22, 1989.*
*Order filed August 18, 1992.*

ROBERT C. LINDSEY, *pro se*, for Claimant.

NEIL F. HARTIGAN and ROLAND W. BURRIS, Attorneys General (KIMBERLY L. DAHLEN, Assistant Attorney General, of counsel), for Respondent.

PRISONERS AND INMATES—*loss of inmate's personal property—constructive bailment created—State liable.* Where the State admitted that it failed to follow its own rules by accurately inventorying, packing and storing the Claimant's personal property on the date of his admission to the prison infirmary, a constructive bailment was created and the State was liable for the loss of the Claimant's property while he remained in the infirmary.

SAME—*damages—age and nature of lost personal property must be considered—Claimant awarded* $141.79. A Claimant seeking compensation for lost personal property has a duty to prove damages in order to prevail and, since in making an award the age and nature of the property must be taken into consideration, the Claimant was awarded $141.79 as a reasonable figure for the loss of his radio, headphones, lamp, and cassette players, which ranged in age from one-month to two-years old.

## ORDER

BURKE, J.

This cause coming to be heard upon Claimant's petition for rehearing and the Court being fully advised in the premises,

It is hereby ordered that Claimant's petition is hereby denied.

## OPINION

BURKE, J.

This cause coming to be heard upon the report of the commissioner, after a hearing before said commissioner and this Court being fully advised in the premises,

Finds that on November 28, 1984, Claimant was ordered from his cell at Menard Penitentiary to the Menard health care unit. Upon arrival, he was advised that his personal property would be removed from his cell and transferred to the personal property office. When Claimant was released from the health care unit on December 28, 1984, certain of his personal property Valued at $477.04 was missing.

The property missing was as follows:

a) Panasonic AM-FM radio, $29.51.

b) Panasonic cassette player, $31.74.

c) Panasonic color T.V., $303.75.

d) York AM-FM cassette player, $83.97

e) Mura headphones, $16.85.

f) Mobolite desk lamp, $11.22.

The departmental report indicates that Claimant was admitted to the infirmary on December 5, 1984, at approximately 9:30 p.m. and released December 26, 1984. On December 22, 1984, Claimant signed an inmate personal property receipt which indicated, "I have received all of my personal property." A resident personal property inventory record for Claimant was also made out on December 22, 1984. The inventory did not list the radio, cassette player, color T.V. or lamp. Additionally, Claimant's original grievance listed a Royal 440 typewriter and no T.V., but in the Court of Claims, no claim is made for the typewriter and a claim is made for a missing color T.V.

The department's Rule 535.100(b) indicates that the shift commander should have inventoried and packed the property before his shift (11:00 p.m. on December 5, 1984) and stored same in a designated area. The inventory

by the cell officers was dated December 22, 1984, the same date Claimant's property was returned to him.

Claimant had little time to look over his property when it was returned. The boxes were taped and he thought the typewriter was missing, but found it in the T.V. box, hence the T.V. was missing. His initial grievance was filed quickly in an effort to retrieve his property if stolen. He had serial numbers for the property if it was recovered during a shakedown. Claimant returned to the property section where the officers claimed no responsibility since they did not pack the property.

In the present case under Rule 535.100(b), the State had a duty to accurately inventory the Claimant's property, pack it and store it before the end of the shift between 9:30 p.m. and 11:00 p.m. The State failed to do this on December 5, 1984. Claimant had a cellmate and believed the property stolen. Under the Court's reasoning in *Owens v. State* (1985), 38 Ill. Ct. Cl. 150, claimant cannot recover because there is no proof (other than for the radio) that the property ever came into the exclusive possession of the State. However, the present case can be distinguished based on the proof of the State's duty to inventory, package and store the property and the unreasonable delay of the State in taking 17 days to perform its duty, The State has admitted in its departmental report that it did not follow its own rules. Thus, it appears that under the State's duty, a constructive bailment was created. The interests of justice require that the State should have inventoried, packed and stored Claimant's property on December 5, 1984. (*Lewis v. State* (1985), *38* Ill. Ct. Cl. 254.) This also appears to be a case where the State can be held liable for the loss of an inmate's property notwithstanding the existence or nonexistence of a bailment relationship. To hold otherwise would be to condone

irresponsibility on the part of prison authorities. The failure to follow its own rules was negligent and led to the loss of Claimant's property. ***Blount v. State*** (1982), ***35*** Ill. **Ct.** Cl. 790.

The Claimant also has a duty to prove damages in order to prevail. ***(Rivera v. State*** (1985), 38 Ill. Ct. Cl. 272.) The age and nature of the property must be taken into consideration in making an award. ***(Stephenson v. State*** (1985), ***37*** Ill. Ct. Cl. 263.) Claimant gave adequate proof of having possession of the radio, two cassette players, the headphones and the lamp. He failed to present adequate proof in regards to the T.V., although given the opportunity to do so. The $11.22 lamp was approximately one year old. The $16.85 headphones were approximately two years old. The $31.74 cassette player was approximately one year old. The **$83.98** cassette player was approximately one month old. The $29.51 radio was approximately 1½ years old. Each item having a five-year life; a reasonable figure for damages is $141.79. Therefore, it is ordered that an award of $141.79 **is** hereby entered in favor of Claimant, said award being in full and complete satisfaction of Claimant's complaint.

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(No. 86-CC-3563—Claim denied.)

ILLINOIS CONSTRUCTORS CORPORATION, Claimant, *v.*
THE STATE OF ILLINOIS, Respondent.

*Opinion filed* **April** *6,* ***1993.***

O'BRIEN, O'ROURKE, HOGAN & MCNULTY, for Claimant.

SAUL WEXLER, for Respondent.

PRACTICE AND PROCEDURE—*when motion* for ***directed finding*** *should* ***be granted.*** A motion for a directed finding should be granted if the evidence, when viewed in its aspect most favorable to the nonmoving party, so ovenvhelmingly favors the movant that no contrary verdict based on the evidence could ever stand.

SAME—*contract* ***claim—State's motion for directed finding denied.*** In the Claimant's action arising out of its contract with the State for the construction of two bridge piers, the State's motion for a directed finding was denied where one of the issues for consideration was contract's express exclusion of "rock excavation" from the scope of the Claimant's work, and there was evidence in the record that a "harder material" was encountered by the Claimant during its performance of work pursuant to the contract.

***CONTRACTS—when contractor is entitled to additional compensation from State for delays.*** Generally, a contractor is bound by the damage provisions of the contract and has no right to additional compensation for delays which prevent the contractor from completing the contract unless the delays are the sole responsibility of the State, but if delays are caused by ,the State, including delays resulting from bid plans and specifications prepared in error by the State, then the contractor is entitled to damages for increased costs resulting from the delays.

SAME—*bridge construction contract—Claimant failed to prove existence* of ***changed condition under contract-claim denied.*** A contractor's claim against the Illinois Department of Transportation stemming from delays in the performance of a bridge construction contract and seeking compensation for additional excavation costs, equipment rental charges, and the recovery of liquidated damages assessed by the Department was denied despite the contractor's claim that subsurface conditions encountered during excavation constituted a changed condition under the contract, since the contract documents and pre-bid tests performed on the material in question provided sufficient notice to the contractor of the conditions actually encountered.

## OPINION

JANN, J.

This matter is before the Court on Claimant's complaint for declaratory relief, claiming a total of **$191,582.70.** Claimant, Illinois Constructors Corporation (hereinafter referred to as ICC), was under contract with the Illinois Department of Transportation (hereinafter referred to as the Department) to build two bridge piers for FA Route No. **412** at the Illinois River near the City of La Salle, Illinois. ICC brought this action pursuant to section 8(b) of the Court of Claims Act **(Ill. Rev. Stat.,** ch. **37,**

par. 439.8(b)). At the close of ICC's case in chief, Respondent moved for a directed finding pursuant to section 2—1110 of the Code of Civil Procedure (Ill. Rev. Stat., ch. 110, par. 2—1110). The motion was taken under advisement and the Respondent presented its defense without prejudice to its motion. Oral arguments were heard November 12, 1991.

During excavation for Pier 35 on the north side of the river, ICC encountered difficulties which it claims slowed the progress of the work and resulted in a substantial increase in cost. ICC seeks an equitable adjustment in compensation pursuant to the changed condition provision of its contract. ICC claims that it encountered subsurface conditions that differed materially from the conditions indicated in the contract documents. ICC presents its claim in the following three parts:

(1) $37,330.96 in additional costs for excavating harder material;

(2) $109,054.22 in costs for reinforcing the cofferdam and $21,467.52 for other rental charges associated with extended time for excavation operations; and

(3) $23,730 for the recovery of liquidated damages assessed by the Department.

The Respondent contends that ICC has failed to prove that the conditions it encountered constituted a changed condition as defined by the contract. Respondent maintains that ICC encountered the materials during excavation that it had reason to anticipate based upon the contract documents and pre-bid soil borings.

It is necessary to examine the scope of work required of ICC and determine the conditions actually encountered by ICC. The critical issue is whether the

contract documents provide sufficient notice of the subsurface conditions encountered.

## BACKGROUND—THE CONTRACT

On April 29, 1983, ICC submitted a bid in the sum of $2,675,110.82 in response to the Department's notice to bidders, specifications, proposal, contract and contract bond (hereinafter referred to as the Notice). The work described in the Notice was for "the complete construction of Piers 34 [south] and 35 [north] for the highway bridge over the Illinois River east of La Salle, in La Salle County, Illinois."

On June 1, 1983, the Department accepted the bid by ICC and the parties subsequently entered into a contract for the work. The contract incorporated all provisions of the Notice, the plans for the project and the "Standard Specifications for Road and Bridge Construction" (hereinafter referred to collectively as the Contract).

The principal items of work, as described in the Contract, were for:

(a) the construction and later removal of temporary cofferdam;

(b) the construction, maintenance and later removal of any necessary system of protection for the main river piers during construction, excavation, furnishing and driving steel piles; and

(c) all appurtenant, auxiliary and collateral work necessary for the completion of the substructure.

The contract specified that ICC was to excavate material within the cofferdams to the elevation of 400.5 feet. The base of the seal coat of concrete was to be

poured at that level. The pertinent boring logs indicated that the riverbed was at an elevation of 434.8 feet. ICC therefore needed to excavate vertically 34.3 feet.

The special provisions of the Contract has a section which describes "WORK *NOT INCLUDED IN CONTRACT.*" That section specifies:

"Not included are the furnishing, fabricating, erecting and painting of the structural steel for the main span tied arch and the approach **span** superstructure, approach span piers, abutments, approach pavements, and the construction of the bridge deck."

R.M. Schless, secretary and employee of ICC, testified that in preparing ICC's bid he assumed that the Notice and the Contract did not require any excavation of rock. He also assumed that if rock were encountered, the Department would pay for rock excavation as a changed condition. His assumptions were based on the express exclusion of rock excavation from the scope of work for cofferdam excavation and because the Contract's schedule of prices contained no pay item for rock excavation.

At the time of bidding, Schless believed that ICC could excavate the material in the north cofferdam with soft ground excavating equipment, *i.e.*, pump or clamshell bucket. His belief was based on low recovery rates of rock indicated in the bridge foundation boring logs (boring Nos. B-135 and B-136).

The log for Boring No. B-135 for Pier 35 describes the material at an elevation of 421.8 feet as "[m]edium, light brown, GRAVEL, broken weathered limestone with sand." Boring No. B-136 indicates that "[m]edium to dense, brown, coarse to fine GRAVEL with sand and several 2' layers of weathered limestone" will be found at 422.3 feet. According to B-135, the material at an elevation of 413.8 is "[h]ard, light gray LIMESTONE with weathered limestone pieces, gravel and sand." According

to B-136, "[h]ard, light gray LIMESTONE, with coal and sand in wash water" is at elevation **412.6.**

Schless testified that rock is often encountered inside a cofferdam. He knew it was likely that rock would be encountered. He assumed, based upon the boring samples, that the material to be encountered would be loose, He believed the low percentage of recovery stated on the boring logs indicated that the rock was not solid. Because there was not a unit price for rock in the contract he further assumed that the Department would make some adjustments when rock was encountered. Schless stated that he was aware that the Department's engineer was the sole person who would make a determination as to whether rock was encountered. Contrary to his assumptions that the Contract did not require the excavation of rock, Schless also assumed that there was a ledge of limestone.

Work necessary for cofferdam excavation **is** described in the Contract as follows:

***"COFFERDAM EXCAVATION:*** The work under this item includes all foundation excavation, except rock *excavation*, within the limits of the cofferdams, backfilling around the piers to the stream bed elevation, and disposal of excess material. The work shall be done in accordance with the requirements of Section ***502*** and **as** specified herein. (Emphasis added.)

Cofferdam excavation shall be measured in cubic **yards** in place within the cofferdam. The horizontal dimensions shall be the design dimensions of the concrete seal. The vertical dimensions shall be the average depth from the surface of the material to be removed to the bottom design elevation of the concrete seal.

This work will be paid for at the contract unit price per cubic **yard** for COFFERDAM EXCAVATION, which price shall be payment in full for the above described work."

The Contract provision specifies that the excavation work "includes all foundation excavation, except rock excavation, within the limits of the cofferdam.'' It specifies that the work **shall** be done in accordance with the requirements of section 502 of the standard specifications

for road and bridge construction (hereinafter referred to as Standard Specifications). The pertinent provisions of section 502 of the Standard Specifications state:

"Section 502.3 General.

* * *

COFFERDAM EXCAVATION, when specified, shall include all excavation within the limits of a cofferdam, except rock excavation.

* * *

Rock Excavation for Structures shall consist of the excavation of boulders ½ cubic yard in volume or greater and all rock in ledges, *bedded deposits* and ***conglomerate deposits so firmly cemented as to present all the physical characteristics and difficulty of removal of rock as determined by the Engineer.*** After the Engineer has made the determination that the material qualifies as rock excavation, the Contractor may use any method he chooses including ripping to remove the rock excavation." (Emphasis added.)

"502.16 Basis of Payment.

* * *

Structure Excavation and Cofferdam Excavation, when specified, will be paid for at the contract unit price per cubic yard for **STRUCTURE** EXCAVATION and COFFERDAM EXCAVATION, measured as specified herein' * *

When material classified as Rock Excavation for Structures is encountered and [ ][w]hen the contract does not contain a unit price for Rock Excavation for Structures, it *will* ***be paid*** *for* ***as extra work in accordance with Article 109.04."*** (Emphasis added.)

The provisions refer to section 109.04 when rock excavation for structures is encountered and there is no unit price for rock excavation.

Section **109.04** of the Standard Specifications states that the extra work will be paid at a price agreed upon by the contractor and the Department's engineer or on a force account basis.

Mr. Cecil Gatewood, the Department's resident engineer, testified that he did not participate in the preparation of the bidding documents and could not explain why

there was no pay item for rock excavation. He stated that work performed without a pay item would be paid under a force account basis, as was done in this instance.

## SUBSURFACE CONDITIONS ENCOUNTERED

A geotechnical engineer hired by ICC, Safdar A. Gill of STS Consultants, Ltd., prepared *two* alternative designs for the cofferdams, labeled Scheme **A** and Scheme B. In so doing, he reviewed the boring logs. Scheme **A** assumed the steel sheeting could be driven below the base of the seal coat of concrete to elevation of 400.5 (feet above sea level). Scheme B assumed that the sheeting would meet refusal at the limestone shown in boring logs, at elevations of approximately 413.8 and 412.6 feet.

Two test piles were driven by ICC at the site on June 17, 1983. One pile met refusal at elevation 409±. Both test piles encountered high blow counts between elevations 416 and 411. Gill concluded that Scheme **A** would not be feasible. ICC decided to construct the cofferdam utilizing Scheme B which required driving the sheeting as deep as possible and stabilizing them with internal bracing. The sheeting would not, under Scheme B, be driven as deep as the base of the pier foundation. The cofferdam was built oversized to provide for a three-foot ledge of limestone inside the face of the sheeting. ICC presumed there was a ledge of limestone which would sustain the sheeting.

ICC submitted the Scheme B design to the Department on July 23, 1983, pursuant to section 502.07 of the Standard Specifications. That section provides that such submission to the Department shall not in any way relieve the contractor of his responsibility to secure a safe and satisfactory cofferdam. The Department notified ICC

that the Pier 35 cofferdam drawings were found to be adequate.

When ICC began driving the steel sheeting for the north cofferdam it met refusal near the elevation of 413 feet, as it had anticipated. After construction of the cofferdam pursuant to the Scheme B design, ICC began excavating the area within the cofferdam in the wet with a dredge pump. ICC contends that it began excavating operations on June 27, 1984. Claimant's Exhibit No. 28 reveals that actual excavation of material began on July 11, 1984. The top 10 feet of material below the riverbed were pumped out with a dredge pump.

When excavation reached elevation of 425 feet, harder material was encountered and the dredge pump was not effective. ICC began digging the harder material with a clamshell bucket. The clamshell bucket weighed at least 9,000 pounds, had hardened steel teeth at least eight inches long and was specifically designed for hard digging. When ICC reached the elevation of 422 feet to 420 feet, the clamshell bucket was not effective.

On July 13, 1984, ICC sent a letter to the Department advising it that bedded deposits and conglomerate deposits were encountered in the Pier 35 cofferdam. ICC stated that the deposits were so firmly cemented that they presented all the physical characteristics and difficulty of removal of rock.

Although the July 13 letter states that it is given in accordance with article 104.04 (changed conditions) and with article 104.03, C.3 (extra work requiring a change in type of construction), the letter does not state that the conditions encountered differ materially from those indicated in the contract. Instead ICC expressed that it wished "to alert the engineer that this work (cofferdam

excavation) now requires a change in type of construction and the ***conditions materially differ from those previously encountered*** and cause an increase in cost and time required for performance of the work." (Emphasis added.) ICC also expressed that the work was beyond the scope of the cofferdam excavation and the equipment would "be placed on standby until an authorization is received from the engineer to proceed under a force account basis or at an agreed unit price for rock excavation."

On July 16, 1984, all excavation efforts at Pier *35* stopped. On July 16, 1984, the Department hired a professional diving company, Pro Dive, Inc., to conduct an underwater inspection of the Pier **35** cofferdam. Pro Dive submitted a report to the Department two days later chronicling its observations. Pro Dive observed

"The bottom was found to consist of rocks and sand tightly compacted together. The majority of rocks ranged in size from gravel up to about 18 inches in diameter. Some rocks were thought to be larger but * * * were **still** partially buried in the bottom. With a probe the diver excavated one such rock and it was 8 inches in diameter * * * the crane operator was requested to drop the clam bucket to the bottom. Inspection revealed that the teeth of the clam bucket penetrated the bottom material about **4** inches."

On July 17, 1984, the Department sent a letter to ICC directing it to proceed with the excavation of the north cofferdam, The letter stated that the matter was reviewed in the field by representatives of the Department and the material was investigated under water by a diver. The letter states

"The findings of this investigation indicate that the deposits are not cemented and should not be classified **as** rock excavation with the exception of the isolated boulders measuring one-half cubic yards or greater in **vol**ume."

The July 17 letter concluded that the material encountered is consistent with that indicated in the boring logs and is not considered **a** changed condition. The Department stated that it would pay for excavation of boulders

in accordance with article 109.04 (payment for extra work).

On July 20, 1984, STS Consultants, Ltd., wrote to ICC describing methods that could be utilized to remove the material from the north cofferdam. Without making an actual inspection of the material in place, STS stated that

"Based upon observation of spoil areas, it appears that the material being removed from the cofferdam consists of cobbles and boulders within a matrix of sand and silt. This conglomeratic soil is apparently interlocked material as indicated by the apparent density and apparent lack of material recovery during the clamshell operations."

The July 20 letter concludes with the notation that the "in-place material appears very dense and exhibits behavior similar to 'rock."

On July 23, 1984, ICC resumed excavation operations using a high pressure water jet to loosen material so that it could be removed by the clamshell bucket. Also on July 23, 1984, legal counsel on behalf of ICC sent a letter to the Department stating that ICC would record its costs in accordance with the "force account" described in article 109.04 of the Standard Specifications, unless some other arrangement was negotiated. There is no evidence of any other arrangement being negotiated.

On July 27, a second shift was added at Pier 35 and ICC extended the work week to six days. A third shift was added on August 2.

## DAMAGES CLAIMED

ICC's three-part claim totals $191,582.70. In relation to the first part, ICC claims it expended at least $355,433.14 to excavate material from elevation 422± to 407 and sent an invoice to the Department on February 7, 1985. ICC claims to have credited to the amount

$34,525.20 for the volume of material within the pay limits of the seal coat excavation and credited the $283,576.98 the Department paid ICC on a force account basis for rocks exceeding ½ cubic yard in volume, leaving a balance claimed due of $37,330.96 in dispute.

In the second part of its claim, ICC argues that it expended $109,054.22 on labor, materials and equipment to reinforce the north cofferdam between September 25 and October 11, 1984. ICC also claims $21,467.52 in rental charges resulting from the extended time for performance through the end of November 1984. The charges are for three items. First, $5,951.36 in steel sheeting rental charges. Second, $8,475 in coffing hoist rental charges from August 14 to September 18, 1984, which were used to support the cofferdam waters until they were lowered into position. ICC added a 5% mark-up for administrative costs. Third, ICC furnished 192 tons of steel bracing from its stock piles and charged rental. ICC also adds a bond cost fee of 1.2% for the three items.

The third part of the claim relates to ICC's request for the return of monies withheld pursuant to the liquidated damage provision of the Contract. ICC only allotted 15 working days for excavation of the cofferdams in its July 2, 1984, progress schedule. The Department ultimately assessed liquidated damages in the sum of $23,730 for an overrun of 56.5 working days on the project. The Contract provided for all pier work to be accomplished within 190 working days. All contract work was completed in 267% working days. The Department authorized, to the benefit of ICC, an extension of 21 days: 10 working days used to drive and splice 32 additional pilings on Pier 35, and 11 working days for additional piling driven on Pier 34. The total approved working days for

the contract were thereby increased to 211 working days, leaving an overrun of 56.5 working days.

Schless contends that the Department, through Cecil Gatewood, the engineer for the project, agreed to an extension of time so that no liquidated damages would be assessed. No documents or exhibits in the record demonstrate that any extension was granted. Gatewood denied that he agreed to an extension of time. Schless admitted that Gatewood did not have the authority to extend the time and such extensions were governed by a procedure described in section 109.04 of the Standard Specifications.

## HESPONDENT'S MOTION FOR DIRECTED FINDING

The Respondent contends that no changed condition existed and ICC encountered those materials which it had reason to anticipate from the contract documents. The Respondent states that the boring logs were made available to Claimant prior to its bidding. Respondent also notes that ICC decided on the design of the cofferdam and the material used in its construction.

Hespondent contends that ICC treated the excavation of boulders in excess of ½ cubic yard on a force account basis. Respondent asserts that it did equitably adjust the Contract by paying Claimant $283,576.98 for rock excavated within the north cofferdam, $35,901.71 for additional pile splicing, and $34,525.20 for additional cofferdam excavation.

The theory of this claim is basically that all money sought is due Claimant because it encountered a changed condition. ICC appears to be arguing that there were *two* changed conditions. ICC claims that at an elevation of

422 feet it encountered material that met the definition of rock and was too hard to be excavated, and then claims that at 413 feet the material was not hard enough to sustain the cofferdam sheeting which caused a cave-in and additional costs for work and equipment.

In determining whether to grant a motion for a directed finding, the motion should be granted if the evidence, when viewed in its aspect most favorable to the nonmoving party, so overwhelmingly favors movant that no contrary verdict based on the evidence could ever stand. (*Pedrick v. Peoria & Eastern R.R.* Co. (1967), 37 Ill.2d 494, 229 N.E.2d 504.) In this case one of the more compelling issues is the effect of the express exclusion of "rock excavation" from the scope of work for the cofferdams. Because there is evidence that a "harder material" was encountered, that express exclusion alone should result in the ruling that the evidence, when viewed in its aspect most favorably towards Claimant, does not overwhelmingly favor Respondent so that no contrary verdict could ever stand. In relation to Respondent's motion for a directed finding, the motion is denied.

## MERITS OF THE CLAIM

**A** ruling on the motion is not dispositive of this matter. The distinction between ruling on the motion and determining liability is that the Court may consider Respondent's evidence and may employ a different burden of proof to the interpretation of the evidence. In determining the issue of whether ICC encountered a changed condition, the Court must determine if the conditions encountered were sufficiently indicated in the Contract documents. ***Foster Construction v. United States*** (Ct. Cl. 1970), 435 F.2d 873.

The first consideration is whether the express exclusion of rock excavation, from the description of work necessary for cofferdam excavation, indicates that the Department did not anticipate that rock would be encountered. The determination of whether the Contract indicated the conditions encountered is a question of law. *(United Contractors v. United States* (Ct. Cl. 1966), 368 F.2d *585.)* The Court finds that the Department anticipated, and the Contract indicated, that a contractor would encounter boulders in excess of ½ cubic yard in volume and encounter the rock conditions indicated in the boring logs. The Contract includes a provision that specifically states what work **is** not included in the Contract but that provision does not exclude rock excavation. The Contract does not indicate that boulders, or other rock fragments, would not be encountered. Boring samples clearly indicated the contrary. The express exclusion of rock excavation from the description of work for cofferdam excavation, when interpreting the contract as a whole, merely related to the manner and method of payment for the work described.

Although it is a question of law, not one of fact, the Claimant still has the burden of proving its right to recovery and **has** a burden of demonstrating what conditions were actually encountered. This is the weakness of Claimant's case. The Court cannot compare the Contract "indications" to the material encountered if it does not know what was actually encountered.

The Court finds that the Claimant has not proven that all of the material encountered at, and below, the elevation of 422 feet meets the definition of rock. This finding in no way relates to the encountering of boulders measuring ½ cubic yard or greater. ICC did encounter boulders measuring ½ cubic yard or greater. ICC has

failed to prove that *all* of the material in question was "bedded deposits" or "conglomerate deposits so firmly cemented as to present all the physical characteristics and difficulty of removal of rock' as defined by section **502.03** of the Standard Specifications.

ICC alleges that the material presented all of the physical characteristics and difficulty of removal of rock, but fails to prove it. According to Claimant, Pro Dive called the inaterial "rocks and sand tightly compacted together," and the Department's geologist called it "sandstone, limestone and dark color igneous rocks embedded in fine sand and organic silty loam." ICC then poses the question as to whether these descriptions meet the definition of rock excavation as described in section **502.03** of the Standard Specifications. The descriptions do not prove that conditions actually encountered are "bedded deposits so firmly cemented as to present all the physical characteristics and difficulty of removal of rock." ICC maintains that whether the material meets the definition of rock depends on the latent properties of the material. At oral argument Claimant's attorney admitted that the material encountered was not geologically classified as rock.

ICC's argument is that the material was as difficult to remove as rock would be, and therefore that proves it was rock. This is insufficient to prove the degree of difficulty of removal. It is also insufficient to prove the latent properties of the material, without evidence that ICC employed the proper method and equipment for removal.

This case is distinguishable from ***Shank-Artukovich*** *v.* ***United States*** (1987), **13** Ct. Cl. **346,** heavily relied upon by ICC. The ***Shank-Artukovich*** court found that the

government's own evidence, *i.e.* daily inspection reports, supported the contractor's position. 13 Ct. Cl. at 351.

There is little merit to the argument that the fact ICC had to employ different construction methods demonstrates that the conditions encountered differed materially from conditions indicated in the Contract. Claimant did not demonstrate the actual conditions it encountered and, therefore, the record does not indicate which construction methods were proper for the conditions encountered. *Kenny Construction Co. v. Metropolitan Sanitary District of Greater Chicago* (1971), 52 Ill. 2d 187, 288 N.E.2d 1, cited by ICC, involved the construction of a tunnel and there was a detailed record which the circuit court relied upon in holding that there were changed conditions. The record detailed methods used by the contractor and discussions between the parties that ultimately led to the circuit court finding that the "District had waived and was estopped" from denying extra compensation. In the *Kenny* case, as well as the other cases cited by Claimant, the courts never held that different construction methods proved there was a changed condition. *Fattore Co. v. Metropolitan Sewer Commission of Milwaukee* (7th Cir. 1971), **454** F.2d 537, *cert. denied*, 406 **U.S.** 921, and later *appealed* (7th Cir. 1974), 504 F.2d 1; *Fehlhaber Corp. v. United States* (Ct. Cl. 1957), 151 F. Supp. 817, *cert. **denied,** 355* U.S. 877.

We rely on the following factors which support Respondent's position: the lack of evidence proving the actual conditions encountered, the lack of evidence showing that the use of equipment and methods were proper, the absence of testimony from a witness that observed the material in place, the absence of testimony from an expert that the material met the definition of rock, the opinion of the Respondent's geologist that "conglomerate

rocks so firmly cemented to meet the definition of rock would not lose their cementation upon excavation, as the material did in the case at bar, the glaring inconsistencies in ICC's claim that everything below **424** to **422** feet met the definition of rock even though the limestone at approximately **413** would not sustain the sheeting, and the description of conditions contained in the August **15, 1984,** STS Consultants, Ltd., letter to ICC, wherein Gill wrote to the effect that he is doubtful that a 12-foot vertical cut can be maintained below the elevation of **413±** feet, and had rock existed below elevation of **413±** feet, then the vertical cut could have been sustained.

The Court finds that the encountering of boulders ½ cubic yard or greater is not a changed condition in this Contract. The potential existence of such boulders was indicated in the Contract and would reasonably be anticipated, as admitted by ICC, when conducting subsurface operations in the Illinois River Valley. Section **502.16** of the Standard Specifications specifies that when "a Contract does not contain a unit price for Rock Excavation for Structures, it will be paid for as extra work in accordance with Article **109.04."** Therefore, the contract anticipated a method of payment for the removal of the boulders.

ICC elected to receive payment for removal of boulders on a force account basis pursuant to the Contract. On February **7,** 1985, ICC billed **$439,675.55** for rock excavation from elevation **424±** feet to elevation **407±** feet. The Claimant's exhibit indicates that approximately **381** cubic yards of rock were removed. The Department found that only **341.8** cubic yards were removed from within the pay limits and agreed to pay **$286,178.56** for rock excavation. On May **15, 1985,** ICC submitted **a** bill in the sum of **$287,000** for rock excavation, without waiving its claim for further reimbursement for claimed sums.

In late 1985 and early 1986, the parties exchanged correspondence regarding adjustments to the bill for excavation within the cofferdam and finally reached an agreement on it. The additional $37,330.96 sought by ICC for excavation appears to be for excavation of material outside the pay limits. Wherefore, ICC's claim for the additional sum of $437,330.96 is hereby denied.

It is not necessary to examine the part of the claim relating to the stabilization of the north cofferdam. The Court finds that there was not a changed condition. The boring logs indicate that limestone would be encountered, but in no way indicate that a ledge of limestone sufficient to support the cofferdam sheeting existed. ICC had the responsibility for the safety, stability, or adequacy of sheet piling and bracing, and was to be solely responsible and liable for all damages resulting from the failure or inadequacy of the cofferdam. This responsibility exists regardless of the Department's approval of ICC's proposed cofferdam design.

The Court further finds that ICC failed to prove that there was an agreement between the parties on waiving liquidated damages. ICC acknowledged that the method of approving an extension requires such extensions to be in writing, but provided no documentation to prove such. The failure of ICC to prove that changed conditions were encountered also works to defeat any claim to equitably adjust the deadlines.

The general rule is that the contractor is bound by the damage provisions of the contract and has no right to additional compensation for delays which prevent the contractor from completing the contract unless the delays are the sole responsibility of the State. ***(Johnson County Asphalt v. State*** (1987), 39 Ill. Ct. Cl. 36, citing ***Walsh***

*Construction Co. v. State* (1964), 24 Ill. Ct. Cl. **441.)** If delays are caused by the State, including delays resulting from bid plans and specificationsprepared in error by the State, then the contractor is entitled to damages for his increased costs resulting from the delays. (*Ezizii Electric, Inc. v. State* (1978), *32* Ill. Ct. Cl. 93; *Warchol Construction Co. v. State* (1979), *32* Ill. Ct. Cl. 679.) Claimant has failed to prove that it encountered a changed condition within the parameters of the Contract which it asserts resulted in delays and additional expenses. Claimant has further failed to provide evidence of the State's culpability in causing delays.

Wherefore, it is hereby ordered that

1. Respondent's motion for a directed finding is denied.

2. Claimant's claim is hereby denied on all counts.

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(No. 87-CC-0178—Claim denied.)

ROBERT MURZYN, as Special Administrator of the Estate of DAVID A. MURZYN, Deceased, and KOBERT MURZYN and BEVERLY MURZYN, Individually, Claimants, *v.*
THE STATE OF ILLINOIS, Respondent.

*Opinionfiled September 24, 1992.*

PIERCE & MEYER, for Claimant.

ROLAND W. BURRIS, Attorney General (JANICE SCHAFFRICK, Assistant Attorney General, of counsel), for Respondent.

HIGHWAYS—*automobile accident—failure to prove existence of pothole—claim denied.* **The** Court of Claims denied *a* claim filed by the administrator of the decedent's estate which alleged *that* the decedent was

killed when he lost control of the car he was driving after hitting a pothole, since the testimony of the investigating officer, an accident reconstruction expert, an eyewitness, and a State employee who inspected the roadway after the accident indicated that no potholes were present at the scene and that the decedent lost control of his vehicle causing it to roll over.

## OPINION

BURKE, J.

Hearing on the above-entitled claim was held on October 22, 1991. Pierce & Meyer, by James F. Carlson, appeared on behalf of the Claimants herein. Roland Burris, Attorney General of the State of Illinois, by Janice Schaffrick, appeared on behalf of the Respondent, State of Illinois.

On June 5, 1985, David A. Murzyn, the decedent, was operating his automobile in a northerly direction on and along Illinois Highway Route 394 at a point approximately 15 miles north of Joe Orr Road overpass, in Sauk Village, Illinois. Riding in said automobile as a passenger was John D. Gariffa.

Mr. Gariffa testified that the car was proceeding northbound in the inner lane, the lane nearest the median strip, at a speed of approximately 65 m.p.h. He stated that the roadway seemed bumpy, and that the right front wheel of the automobile struck a pothole. As a result, the right front tire blew out, and the car veered to the right and the driver brought it back to the left and it entered the median strip where it rolled completely over and relanded upright on its wheels on the southbound roadway of Route 394. He described the pothole as 10 to 12 inches in diameter and four to six inches deep.

As a result of the above, Robert Murzyn was thrown from the vehicle. He was taken by paramedics to St. James Hospital in Chicago, where he was pronounced

dead. An autopsy was performed on his body and the cause of his death was the result of multiple and extreme injuries to his head, neck and body.

Sergeant Paul Smith of the Illinois State Police testified that he arrived at the scene of the accident shortly after the occurrence. The injured parties were still on the ground and he assisted the paramedics. He made his investigations. He stated that the right front and right rear tires of the vehicle involved were flat, He examined the right front tire and it appeared to be "smooth and worn." He sent for an accident expert and Peter Chico appeared on the scene. Together they examined the roadway where the skid marks began and found no potholes in the road. In his opinion the road was in good condition.

Peter Chico, the accident reconstruction expert, testified that there were on the road "yaw" marks, and that a "yaw" mark is a tire mark left on the pavement as the result of a vehicle rolling and slipping at the same time. He calculated from his computations that the vehicle was traveling at 64 m.p.h. He stated that on the day after the accident, he examined the roadway and saw no potholes.

James Cannon, an employee of the Illinois Department of Transportation, stated that he is the head of the Calumet maintenance yard which encompasses the area where the accident occurred. He and two co-workers walked over the area of the accident. They found no potholes or anything requiring their attention or service by his department. He identified certain photographs of the roadway in question taken by him and testified that the photographs show no evidence of potholes.

The evidence deposition of Michael Kirk, a witness to the accident, was introduced into evidence by agreement. He testified he saw the vehicle involved in the accident

approaching from his rear so he moved from the left or inner lane to the right lane. When the vehicle passed him it was going 65 m.p.h., when it was about 20 feet ahead of him and to his left, he heard a loud bang, and the vehicle veered to the left and then to the right and then to the left again when it entered the median strip. It rolled over, ending up on its wheels in a diagonal position on the southbound lane of Highway **394.**

Claimants have failed to sustain their burden of proof. The concrete highway where the accident occurred was in good condition and no potholes were present. The evidence clearly indicates that the decedent lost control of his vehicle causing it to enter the median and roll over.

Wherefore, it is hereby ordered that **this** claim be denied.

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(Nos. 87-CC-0440, 87-CC-0551 cons.—Claimants Lucille Alger and Jerry Rodgers awarded **$5,695.20;** Claimants Robert Geiger and Willard Nelson awarded **$6,231.47.)**

**LUCILLE ALGER** and **JERRY RODGERS,** and ROBERT **GEIGER** and **WILLARD NELSON,** Claimants, **u.**
**THE STATE** OF **ILLINOIS,** Respondent.

*Opinion **filed November 13,1992.***

CHAMBERLAIN, NASH, NASH & BEAN, for Claimants.

ROLAND **W.** BURRIS, Attorney General (TERRENCE J. CORRIGAN, Assistant Attorney General, of counsel), for Respondent.

NEGLIGENCE—*damage to property—State's duty to reasonably maintain culverts.* **The Department of Conservation has a duty to reasonably maintain its culverts**

to keep them flowing so as to avoid damage to those upstream, but for liability to attach to the State, the Department must have had knowledge of the condition which caused damage and such condition must have been the proximate cause of the damage.

SAME—*crop damage* **due to clogged** *culvert—State's* **liability established.** In separate negligence claims filed by landowners alleging that their crops were destroyed when a wire mesh grate installed by the State over a culvert clogged and caused their property to flood, the State was liable for the destruction of the crops, since it breached its duty by maintaining a grate that it knew could clog and by its failure to discover that the grate had been blocked for one week, and because the breach was the proximate cause of the crops' destruction.

**DAMAGES—destruction** *of* **Claimants'** *crops—awards* **granted.** Although the Claimant property owners, in their actions seeking compensation for the State's negligent destruction of their crops due to flooding, were entitled to damages from the State, the award to two of the Claimants was reduced to reflect damage that would have occurred to their crops in the absence of the State's negligence, and the award to the other Claimants was adjusted so as to compensate them the same amount per acre as they received from the sale of similar crops on their remaining undamaged land.

## OPINION

**SOMMER,** J.

The claims before us are for damage to crops in Geneseo Township, Henry County, due to flooding allegedly caused by the negligence of the State.

Lucille Alger and Jerry Rodgers are claiming a loss of the entire soybean crop on **24** acres. Robert Geiger and Willard Nelson are claiming a loss of the entire hybrid seed corn crop on **20.53** acres.

All Claimants allege that the flooded areas were unable to drain because culvert No. **29** under the Hennepin Canal Parkway was blocked with debris. The general flow of water in the area was northerly into culvert No. **29** under the Hennepin Canal, then under a county road, and then into the Green River. On the south side of culvert No, **29** was a wire mesh grate. This grate had been installed to prevent beavers from entering the culvert and building dams therein. The Department of Conservation found such beaver dams caused flooding and

were difficult to remove once built. There had been beavers previously in culvert No. 29.

On July 7 and July 8, 1986, approximately five inches of rain fell, and approximately one inch of rain fell over July 10, 11 and 12. On July 15, Jerry Rodgers, the tenant farmer on one of the parcels, noticed water standing to a depth of three or four feet in the back of his field to the south of culvert No. 29. Mr. Rodgers called the Department of Conservation and the Department cleared the grate of accumulated debris. The area then drained in 72 hours.

The Department of Conservation had a duty to reasonably maintain culvert No. 29 to keep it flowing so as to avoid damage to those upstream. However, for liability to attach to the State, the Department of Conservation must have had knowledge of the condition which caused damage and such condition must have been the proximate cause of the damage. *Boyle v. State* (1989), **41** Ill. Ct. C1.64.

The Department had been called to clean the grate of debris on several occasions over the years. The Department always responded promptly. The Department records indicate that the general area of culvert No. 29 was patrolled between July **8** and July 15, and there was no indication of a problem. There is no evidence that any State employee observed the south end of culvert No. 29 where the grate was. Access to the south end of culvert No. 29 by vehicle would have been difficult in the wet conditions. Rather, patrolling was done along the county road on the north side of the canal. From the vantage point of the county road, the flooded portions of the fields were not visible.

When the flooding was discovered on July 15, the grate was found to be clogged and had to be pulled out

by a power winch by the Department. The water flow on the north side of the canal increased noticeably, and a downstream neighbor inquired as to the cause of the increased flow.

This is not the first claim in which the State was responsive and commendably worked to forestall damage but was, nonetheless, in breach of its duty. (*Conners v. State* (1988), 40 Ill. Ct. Cl. 112.) We find that the State breached its duty by maintaining a grate that it knew could clog and not discovering that the grate had clogged for a period of a week.

The State contends that the clogged grate was not the proximate cause of the flooding, or, in the alternative, that the flooding and damage would have occurred anyway. The State contends that the flap on the drain at the Green River may have closed, causing the ditches in the area not to flow. Stephen Moser, the site superintendent at the Hennepin Canal, testified that on July 13 he drove along the county road and noticed that water in the ditch on the north side of the road was not moving. He assumed that the flap on the Green River had closed. There was no flooding north of the canal. The State's expert and the Claimants' expert disagree as to whether there would have necessarily been flooding on the north side of the canal if the flap was closed.

The State contends that the volume of water was so great, because of the abnormal rainfall, that the whole drainage system could not accommodate it. It concludes that damage to the crop would have occurred necessarily, as it took 72 hours for the fields to drain when the grate was removed.

The Claimants' engineering expert, Ronald Wallace, testified that the fields should have drained in about 33

hours given the amount of rainfall. Jerry Rodgers, who has a Master's degree in agriculture from the University of Illinois, testified that his crop could be under water for two days, but then it would die. Edward Kiefer, Mr. Rodgers' farm manager, testified the same. The conclusion this Court draws is that, had the area drained normally, there would have been some damage but not total destruction. We find that the blocked grate was the proximate cause of the destruction of the crops.

The damage to Alger and Rodgers was calculated by the testimony of Jerry Rodgers and Edward Kiefer. They personally measured the portion of the field that totally lost soybean production in 1986 due to the flood. They further had the production records from the other portion of the field for 1986 to establish an average-per-acre soybean yield of 56.4 bushels per acre. This multiplied times 24 acres of production loss, times the Fall 1986 price of $4.50 per bushel, establishes their claimed damages at $6,091.20. However, Mr. Kiefer testified that the yield would be reduced about three bushels per acre in the flooded area, even if it had drained properly.

The Geiger and Nelson claimed **loss** was calculated by measurements by Wyffels Hybrids, the seed corn company that had contracted for seed corn to be raised on the Geiger and Nelson field. The seed corn acreage for Geiger and Nelson was reduced by Wyffels Hybrids by 20.53 acres subsequent to July 8, 1986. Mr. Geiger testified that he, over the previous five years from 1986, had realized $435.03per acre from Wyffels Hybrids seed corn production, and that average multiplied by the lost acres of 20.53 resulted in a total damage of $8,949.64. However, when Mr. Geiger was asked about the price he received for the 1986 seed corn grown on the remaining 79.47 acres of the field, he did not respond with a figure.

Claimants' Exhibit No. 10 is a document entitled "Wyffel's Hybrids, Inc. Final Grower's Settlement 1986 Crop Year." Exhibit No. 10 indicates that Wyffels paid $306.53 per acre for the crop on the remaining 79.47 acres. At the price Wyffels paid, the loss would be $6,293.06. No evidence was entered concerning yield loss due to the wet conditions had the Geiger and Nelson field drained properly.

This Court finds that the State was liable for the destruction of the crops. There is insufficient evidence to show that the heavy rains of the preceding week would have remained on the fields long enough to cause total destruction of the crops if culvert No. 29 had not been obstructed.

The State has argued against the amount of damages by contending that there is a cost of harvesting and that the prices chosen were not proper, The fuel cost of harvesting was **$2** to **$3** per acre, as established in testimony, and there was no indication that custom harvesting was contemplated.

Why the October 1986 price was chosen for the Rodgers and Alger soybeans **was** never explained as the crop was sold in 1987. However, the 1987 price would include storage, so we find that the current delivery price in October 1986 would be reasonable to use.

We find that the proper measure of damages for the Geiger and Nelson loss would be the price received for that portion of the field undamaged by the July blockage at culvert No. 29. There is no good explanation in the record why the price received for the remainder of the field was not used in the Geiger and Nelson calculations. We will use such, as in the Alger and Rodgers claim, as the best measure of damages.

Machinery costs, though urged as a deduction by the State, are not relevant when attempting to establish the cash loss. We will, however, deduct $3 per acre fuel cost savings from the requested amounts, and three bushels per acre from the Alger and Rodgers claim due to reduced yields because of wet conditions as testified to by Edward Kiefer.

Therefore, we award $5,695.20 to Lucille Alger and Jerry Rodgers (87-CC-0440); and we award $6,231.47 to Robert Geiger and Willard Nelson (87-CC-0551).

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(No. 87-CC-2556—Claim denied.)

**PRESTON ODER** and **SHIRLEY ODER, Claimants,** *v.* **THE BOARD OF TRUSTEES OF THE UNIVERSITY OF ILLINOIS,** Respondent.

***Order of Summary Judgment filed August 28, 1991.***

***Order filed November 6, 1992.***

MARCH & MILAN, for Claimants.

FRANKLIN, FLYNN & PALMER, for Respondent.

PRACTICE AND PROCEDURE—*veterinary* malpractice *action*—*summary* judgment entered for *Respondent*—*no* basis for assessment of attorney *fees against* Claimants. Where, subsequent to the entry of summary judgment against the Claimants in their veterinary malpractice action against the University of Illinois, the university filed a post-judgment motion requesting attorney fees as a sanction against the Claimants, the motion was denied since the Court of Claims had no jurisdiction to enter an order assessing such fees.

## ORDER OF SUMMARY JUDGMENT

PATCHETT, J.

This cause comes before the Court on the motion for summary judgment filed herein by the Respondent. The Court has carefully considered the motion for summary

judgment and attached deposition of Dr. E.L. Reinertson, a veterinary doctor from Iowa State University.

In addition, the motion for summary judgment was filed on May 3, 1991. To date, the Claimants have made no response. Therefore, the motion for summary judgment is hereby granted in favor of the Respondent and against the Claimant.

ORDER

PATCHETT, J.

This case arose as a claim of veterinary malpractice against the University of Illinois School of Veterinary Medicine via a claim filed on March 4, 1987.

The Respondent filed a motion to dismiss on November 29, 1989. On February 28, 1990, this Court entered an order denying the motion to dismiss, and remanding the case to a commissioner for further proceedings. On May 3, 1991, the Respondent filed a motion for summary judgment. That motion for summary judgment was granted via an order entered on August 28,1991.

On September 30, 1991, the Respondent filed a post-judgment motion requesting attorney fees. Oral argument was had on this motion on May 12,1992.

Counsel for the Respondent argued that they were entitled to attorney fees as a result of something resembling Rule 137 sanctions. In response to specific questioning regarding jurisdiction to impose such attorney fees, counsel for the Respondent could point to no authority allowing this Court to enter such an order.

It is the opinion of this Court that we are without jurisdiction to enter an order assessing attorney fees as a form of sanctions against the Claimant.

Therefore, the post-judgment motion requesting attorney fees is hereby denied.

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(No. 87-CC-2911—Claimant Carole Anne-Jeanette Marasovic awarded $30,593.86; Intervenor Continental Casualty Company awarded $8,295.14.)

**CAROLE ANNE-JEANETTE MARASOVIC, Claimant, *v.* THE STATE OF ILLINOIS,** Respondent.

***Order filed December** 13, 1990.*

***Opinion filed March** 25, 1993.*

***order filed May** 4, 1993.*

*Order filed June 9, 1993.*

**ETTINGER & SCHOENFIELD, for** Claimant.

ROLAND W. **BURRIS**, Attorney General (**JOHN** R. **BUCKLEY,** Assistant Attorney General, of counsel), for Respondent.

**JOHN M. BARNES,** for Intervenor.

*HOSPITALS* AND **INSTITUTIONS**—*State* has ***duty to prevent foreseeable attacks by mental patients.*** The State has a duty to prevent the patients of mental institutions from attacking people where such an attack is foreseeable given the history or the condition of the patient.

***SAME—negligence—Claimant attacked by patient at mental facility—State liable.*** The State was liable for injuries sustained by the Claimant when she was attacked by a patient at a State institution **for** the mentally retarded where, prior to the attack, the patient had a history of violent behavior and unprovoked assault which was known to the staff, the Claimant, who had gone to the facility to interview another resident, was given no warning regarding the woman's violent tendencies, and the staff failed to supervise or otherwise control the patient who was allowed to remain in the same room **as** the Claimant at the time of the attack.

***DAMAGES—negligence action—Claimant and intervenor insurance company's agreement as to disbursal of award.*** Where the Claimant was awarded $38,889 in her negligence action against the State **as** a result of being attacked by a patient at a State mental facility, the Claimant and the insurance

company which was allowed to intervene to protect its lien interest under the Workers' Compensation Act reached an agreement as to the disbursal of the award, pursuant to which the company was granted $8,295.14 of the proceeds.

## ORDER

BURKE, J.

On motion of Petitioner, Continental Casualty Company it is ordered that the petition to intervene is granted.

## OPINION

BURKE, J.

On August 7, 1985, while employed by the Legal Assistance Foundation as an advocate in the protection and advocacy program, Claimant went to Howe Developmental Center in Tinley Park, Illinois, to interview a resident at the request of the resident's mother. Howe Developmental Center is a State institution for the mentally retarded and is staffed by State employees. Claimant was accompanied by an associate law student who also worked for the Legal Assistance Foundation. The Claimant made prior arrangements with the staff at Howe Developmental Center to meet and interview the resident.

When Claimant and her associate arrived at the center, they were met by staff of the facility and led to a small table in an open room within Unit 507 and directed to a table for their interview. Claimant requested a private room in which to conduct the interview, but was informed that the "open room" was all that was available. A staff member brought the resident to the table in the open room. At the far end of the room there were a number of patients who were seated along the wall behind Claimant. The staff permitted the patients, including a resident named Susan, to remain in the room.

The Claimant, while conducting her interview, was struck from behind by a heavy blow to the back of her head and neck. The blow caused the Claimant's head to go down on the table and snap back. Claimant was subsequently struck two additional times and each time her head snapped back and forth. Claimant stated that without provocation, a resident named Susan rammed her head into the back of the Claimant's head and neck. When the blows ceased the Claimant saw a staff person lead the assailant away

At the time in question, Howe Developmental Center generally housed mentally retarded, nonviolent patients. The Claimant had never been in Unit 507. Further, the Claimant had no information to indicate that the person she went to interview at Howe was violent or that any of the other residents at Howe were violent. Unit 507 at Howe Developmental Center was a special unit for residents with behavioral problems and violent tendencies. The resident, Susan, had a history of violent behavior and unprovoked attacks which was documented in her record and which was known by the staff. Prior to the attack, no warning was given to the Claimant or her associate by the staff regarding the violent tendencies of the resident, Susan, or any other resident in Unit 507. The staff failed to supervise or otherwise control Susan at the time of the attack on Claimant. The State negligently exposed Claimant to a mentally retarded patient it knew was dangerous, failed to warn Claimant of the danger and failed to control or supervise a mentally retarded patient.

The State has a duty to prevent the patients of mental institutions from attacking people where such an attack is foreseeable given the history or the condition of the patient. *(Maloney v. State* (1957), ***22*** 111. Ct. Cl. 567; *Calbeck v. State* (1958), ***22*** Ill. Ct. Cl. 722.) This is consistent

with Illinois law on custodial liability for harm caused by a third person in the custodian's control, which follows section 319 of the Restatement (Second) of Torts (1965). *(Estate of Johnson v. Condell Memorial Hospital* (1988), *119* Ill. 2d 496.) This section of the Restatement states as follows:

**"One who takes charge** of **a thud person who he knows or should know to be likely to cause** bodily **harm to others if not controlled is under a duty to exercise reasonable care to control the third person to prevent him from doing such harm."**

It is undisputed that the State is liable for Claimant's injuries arising from the attack. The State negligently placed Claimant in a position where she was open and vulnerable to an attack, failed to warn Claimant of the danger and failed to supervise or otherwise control a person under its control. The State breached its duty to prevent a patient in its control from attacking the Claimant when that attack was entirely foreseeable given the previous history and nature of the attacker. See *Maloney v. State* (1957), *22* Ill. Ct. Cl. 567; *Calbeck v. State* (1958), 22 Ill. Ct. Cl. 722.

The Claimant is entitled to damages for medical expenses of $5,889.25, pain and suffering experienced in the past and likely to be experienced in the future, and disability experienced in the past and likely *to* be experienced in the future.

Wherefore, it is hereby ordered that the Claimant be awarded $38,889 in full and complete satisfaction of this claim.

## ORDER

BURKE, J.

This cause comes on to be heard following the Court's opinion entered herein on March 25, 1993, and

pursuant to the order of December **13,** 1990, which granted Continental Casualty Company leave to intervene to protect its lien interest under the Workers' compensation Act.

On March 25, 1993, an award was entered in favor of the Claimant, Carol Anne-Jeannette Marasovic in the amount of **$38,889.** The decision did not address the issue of Continental Casualty Company's interest in the case. At this time the Court anticipates that funds for payment of the award will not become available until late September of 1993. Prior to the funds becoming available, the Court is desirous of resolving the issue of the lien. The Court strongly encourages the parties to arrive at an agreement as to disposition of the proceeds of the award.

Wherefore, it **is** hereby **ordered that**

**(1)** Efforts to secure the appropriation of money to fund the award shall continue but no payment is *to* be made until further order of the Court,

**(2)** The parties are to confer regarding disbursal of the proceeds of the award, and

*(3)* **If** the parties amve at an agreement as to disbursal of the award they are to notify the Court of terms of their agreement and, if they are unable *to* agree, then the parties or one of them is to so notify the Court so that a hearing may be scheduled.

ORDER

**BURKE, J.**

This cause comes on to be heard following the entry of our order herein on May **4,** 1993, and the parties' response thereto;

Pursuant to the agreement of the Claimant and the intervenor, $8,295.14 of the $38,889 award entered heretofore on March 25, 1993, is to be paid to Continental Casualty Company in care of its counsel and the clerks office is directed to so voucher the payment.

So ordered.

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(No. 87-CC-2999—Claim denied.)

LISA J. WOOD and COUNTRY MUTUAL INSURANCE *Co.*, Claimants, *v.* THE STATE OF ILLINOIS, Respondent.

*Orderfiled November 9, 1987.*

*opinionfiled March* 30, 1993.

HOLLEY, KEITH & MAELICK, for Claimants.

ROLAND W. BURRIS, Attorney General (DAVID BO MATTSON, Assistant Attorney General, of counsel), for Respondent.

HIGHWAYS—*State's breach of duty to maintain highways—what Claimant must prove.* The State is not an insurer against all accidents which may occur by reason of its highways and, although the State has a duty to maintain its highways in a reasonably safe condition for all users, in order to prevail on a claim for breach of that duty the Claimant must show that the State had actual or constructive notice of the defect causing the injury or damage complained of.

SAME—*duty to maintain highways—reasonable diligence.* The State's duty to maintain its highways in a reasonably safe condition is fulfilled by using reasonable diligence in such maintenance.

*SAME—negligence action—pothole in roadway—state fulfilled* duty *to maintain highway—claim denied.* In the Claimant's action alleging that, as a result of the State's negligence in failing to permanently repair a pothole in the roadway or warn the Claimant of its existence, her passenger suffered personal injuries and her car sustained extensive damage, the claim was denied, since there was unrebutted testimony that the State had repaired the pothole a few days before the accident, thus demonstrating its use of reasonable diligence in maintaining the roadway.

ORDER

BURKE, J.

This Court having considered the Respondent's motion to dismiss Count III, and being fully advised in the premises, finds that Claimant Lisa Wood has failed to provide timely notice as required by section 1 of the Court of Claims Act (Ill. Rev. Stat., ch. 37, par. 22—1). It is therefore ordered that Count III as to Lisa Wood is dismissed for lack of jurisdiction.

OPINION

BURKE, J.

On April 21, 1985, Claimant was returning to college from her parents' home in Bourbannais, Illinois. At approximately 6:45 p.m., Claimant was operating her Ford Escort automobile in a westerly direction on Route 136, which is a heavily traveled highway in McLean County, Illinois, and as her vehicle descended from a crest in a hill, she observed a pothole in the roadway approximately 150 to 200 feet from the crest of the hill. The pothole covered approximately two-thirds of the westbound lane and at the moment she noticed the pothole, she applied the brakes to her vehicle to reduce her speed in an attempt to avoid striking the pothole, but was unable to do so. Claimant lost control of her vehicle and caused the following damages as stipulated by the parties:

**A.** **$6,102.81** for repairs to the Woods vehicle and $10,000 paid by Country Mutual Insurance Company to Beverly Clark, a passenger in the Woods automobile, in her claim for personal injuries and medical expenses.

**B.** $100 paid by Claimant on the repair of her automobile and not reimbursed by Country Mutual Insurance Company under her policy of insurance.

The Claimant asserts that the Respondent, State of Illinois, Department of Transportation, was negligent by failing to properly maintain the roadway by not applying a

permanent patch to a large pothole that was present on the roadway for at least two to three months prior to the accident, failing to install adequate warning signs or otherwise adequately warn motorists of the dangerous condition of the roadway, and failing to check the pothole over the weekend to ensure that it did not present a dangerous condition.

Tom and Marcella Woods, parents of Lisa Woods, stated that they had traveled westbound near the scene of the accident a few days before and had observed the pothole measuring five to eight feet in diameter and of such depth that it became necessary to drive either to the right on a narrow shoulder or to the left into oncoming traffic in order to avoid striking the hole.

Mark Flynn, who lives three quarters of a mile from the scene of the accident, stated that he arrived shortly after the accident and observed the pothole which he described as being five to six feet in diameter and covering about two-thirds of the westbound lane. He further stated that he had traveled the area of the accident twice a day and five or six days per week for about two years prior to the accident and that this particular pothole was present for at least two or three months prior to the accident of April 21,1985. He stated that the pothole was difficult to observe because of the location just over the crest of the hill and that he never saw anyone repair this particular pothole until April 22, 1985, which was the day following the accident.

William Grant and Francis Weber stated that the pothole had been temporarily repaired two days prior to the accident. The unrebutted testimony that the pothole was repaired by the State maintenance crew within a few days before the accident is evidence of diligence. *Scroggins v. State* (1991), 43 Ill. Ct. Cl. 225.

No evidence was introduced indicating actual or constructive notice. The established rule of law adopted by the Court is that "the State of Illinois is not an insurer against all accidents which may occur by reason of its highways." *Scroggins, supra.*

It is well established that the State of Illinois has a duty to maintain its highways in a reasonably safe condition for all users, and in order to prevail on a claim for a breach of that duty, claimants must show that the State had actual or constructive notice of the defect causing the injury or damage complained of. (*Stills v. State* (1989), 41 Ill. Ct. Cl. 60.) The duty to maintain is fulfilled by using reasonable diligence in such maintenance. To recover, a claimant bears the burden of establishing by a preponderance of the evidence that the State has the duty to use reasonable care in maintaining the highway at the accident site. The duty to maintain was fulfilled and Claimant failed in meeting her burden of proof.

It is hereby ordered that this claim is denied.

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(Nos. 87-CC-3271, 87-CC-3272 cons.—Claim denied.)

KENNETH MILLER and HENRY HITE, Claimants, *v.*
THE STATE OF ILLINOIS, Respondent.

***Opinion filed October 7, 1992.***

COPELAND, FINN & FIERI, for Claimants.

ROLAND W. BURRIS, Attorney General (JOHN R. BUCKLEY, Assistant Attorney General, of counsel), for Respondent,

HIGHWAYS—*buckling of pavement—no evidence of State's actual or constructive notice—negligence claim denied.* Where the Claimants sustained

personal injuries and property damage when their car hit a rise in the highway where the pavement had buckled, their negligence claim against the State was denied, since the buckle had existed for a short period of time and there was no evidence that the State or its employees knew or should have known about the defect prior to the incident or failed to do anything about it once it occurred.

## OPINION

BURKE, J.

Claimants brought this action against the State of Illinois as a result of an incident which occurred on Interstate 57. On June 8, 1986, Kenneth Miller was operating a motor vehicle south on Interstate 57 at approximately 3:00 p.m. He was near Peotone when the car hit a rise in the highway. Mr. Miller stated that he did not see the two-foot high, "A" shaped rise at any time prior to the impact. When the car hit the rise, he grabbed tightly onto the steering wheel and pulled over to the side. The car flew slightly into the air on the left side and sustained damage to the undercarriage. Prior to striking the rise, Mr. Miller observed two or three cars that pulled over about 50 to 100 yards past the rise on the highway. Henry Hite, Mr. Miller's father-in-law and owner of the car, was a passenger at the time of the incident. As a result of the impact with the rise, both Claimants were treated in the emergency room of a hospital in the Kankakee area and released.

The issues are whether the State is responsible for this particular incident allegedly caused by the buckling of the rise in the pavement on Interstate 57, and whether the State had actual or constructive notice prior to the occurrence of the incident.

No evidence was presented to show that the State or its employees knew or should have known about this particular rise on the day in question. Claimants cited a case which deals with similar facts, but is distinguishable

because evidence of 70 similar prior incidents involving buckles was presented which gave the State notice of a particular problem in the area. (*St. Cyr v. State* (1989), 41 Ill. Ct. Cl. 36.) In the case at bar, it is clear that the buckle existed for a short period of time. The other two or three cars in the vicinity may have been damaged by the buckle immediately before Claimants' car struck it, but there was no evidence to suggest that the State should have known about this buckle or failed to do anything about it once it occurred.

State employees stated that there is no way to predict when a buckle is going to occur and that there is no set pattern to buckling. The State does not deny that these buckles can be a dangerous condition; however, the fact that these buckles occur is not evidence of negligence. Where there is no indication of prior notice, either actual or constructive, on the part of the State to these conditions, the State will not be held responsible.

Wherefore, it is hereby ordered that this claim is denied.

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(No. 87-CC-3424—Claim denied.)

STANLEY TROTTER, Claimant, v. THE STATE OF ILLINOIS, Respondent.

*Order filed April* 6, 1993.

GERALD M. SACHS & ASSOCIATES, for Claimant.

ROLAND W. BURRIS, Attorney General (JANICE L. SCHAFFRICK, Assistant Attorney General, of counsel), for Respondent.

HIGHWAYS—*State has* ***duty to use reasonable care in maintaining its roads—notice*** *of dangerous* ***conditions.*** While the State is not an insurer of the conditions of its roadways, it has a duty to use reasonable care in maintaining its roads which requires that defective and dangerous conditions not **exist** on the highways, and a key inquiry with regard to the existence of **such** conditions is whether the State had actual or constructive notice of a dangerous condition and then permitted it to exist without warning to the public.

***SAME—motorcycle*** *accident—Claimant* ***failed to establish State's*** *negligence—claim* ***denied.*** Despite the Claimant's allegations that the State's negligent maintenance of a highway exit ramp caused him to lose control of his motorcycle, crash into a cement divider, and suffer personal injuries and property damage, the claim was denied where there was no evidence that a pothole which the Claimant purportedly struck on the shoulder of the roadway caused the accident or that the State had actual or constructive notice of a dangerous condition at the location in question.

## ORDER

JANN, J.

This claim sounding in tort arises out of a motorcycle accident which occurred on May 14, 1986, on an exit ramp from Interstate 94 at 159th Street in Thornton Township, Cook County, Illinois. Claimant alleges that Respondent negligently maintained the ramp in a manner which proximately caused physical injuries and property damage suffered by Claimant.

**A** hearing was held before Commissioner Michael Kane on December 20, 1991. **A** brief was submitted by Respondent on December 9,1992. Claimant has not filed a brief.

## FACTS

On May 14, 1986, Claimant, a 39-year-old male was operating a 1983 Honda Goldwing motorcycle eastbound on Interstate 94 (the Calumet Expressway) when he exited at 159th Street intending to go to Hammond, Indiana. Claimant was in possession of a valid operator's

license and had been riding motorcycles for about 15 years at that time.

Claimant testified that he was traveling at approximately 30 m.p.h. on the ramp which was a two-curve exit ramp. As he made the turn in the second curve, there was a pothole which he observed and then struck a second or two later. Claimant identified and marked exhibits which showed the pothole located off the actual roadway in the gutter which was attached to the shoulder of the roadway. After striking the pothole, Claimant stated he lost control of his motorcycle. It veered left as he traveled to the top of the ramp and onto 159th Street where he hit a cement divider and sustained personal injuries and damage to his motorcycle.

In addition to the Claimant's testimony, there was presented on his behalf the testimony of an expert, Robert Lippman, who is a professional civil engineer. The State presented John Cannon, an employee of the Illinois Department of Transportation, and also an expert pursuant to Supreme Court Rule 220, Mr. Dror Kopernick. Based on the testimony presented through these four witnesses and the exhibits provided by both parties, it is the finding of the Court that the accident did not occur in the way described by the Claimant. Further, it is physically impossible for the Claimant to have hit the cement median on 159th Street according to the testimony he gave and the exhibits entered into evidence.

Claimant's Exhibits Nos. 1 through 9 show the location of the pothole on the date of the incident and, in addition, the ramp as it heads towards 159th Street. It is the Claimant's testimony that after he hit the pothole, the motorcycle veered to the left. It is clear from the photos that the Claimant himself identified that if the motorcycle

veered to the left and he was unable to control it, Claimant would not have hit the concrete divider on 159th Street. At the time he supposedly hit the pothole, the Claimant was heading in a somewhat northerly direction, the concrete divider is further to the east and it is not shown in any of the photographs. What does appear in the photographs is the barrier in existence which would have prevented his motorcycle from veering to the left and hitting the concrete median.

Mr. Lippman, Claimant's .own expert, testified that the Claimant's statements were confusing as to the incident. Based upon' what he was able to ascertain, Lippman opined that the cause of the accident was a poorly maintained shoulder and the lack of an advisory speed limit sign. On cross-examination, Mr. Lippman reiterated that it was not his opinion that the pothole Claimant allegedly struck was the cause of the accident. Claimant had been unable to identify exactly what pothole allegedly caused his accident.

The State's evidence was primarily produced by Mr. Kopernick who is a mechanical engineer employed by Triodyne, Inc. He is an accident reconstruction expert. He reviewed copies of the police reports, depositions, and took numerous photographs of the location as it existed at the time of his examination. By that time, the nature of the location had changed and the ramp had been redesigned. However, through photographic reconstruction, the witness was able to establish where the pothole had been at the time of the incident. According to his testimony, the hole was approximately 150 to 175 feet from 159th Street, which is consistent with the views depicted in Claimant's photographs. Further, Mr. Kopernick recreated a similar pothole at the Illinois Department of Transportation property in Alsip. Videotapes

were identified and presented of that hole and of the expert operating a similar motorcycle through the pothole. It is clear from these tapes that if the operator is aware that the pothole is about to be struck, a pothole of the size and nature described by the Claimant and identified in the photos would not cause an operating problem for the driver. The only distinction that can be drawn between these tests and the Claimant's operation is that the Claimant was unaware that he was to hit the pothole until shortly before he actually struck it. This testimony is not conclusive in and of itself, but it is another contradiction of the Claimant's version of what occurred.

Mr. John Cannon, IDOT team section technician, also testified on behalf of Respondent. Mr. Cannon was, as part of his duties, responsible for maintenance of the roadway where Claimant's accident occurred. Cannon's review of IDOT records found no complaints or notifications of problems concerning the condition of the ramp in question. Cannon also had personal knowledge of the ramp, but indicated he had no recollection of any problems at that location.

## THE LAW

While the State of Illinois is not an insurer of the conditions of its roadways, it does have a duty to use reasonable care in maintaining its roads. ***(Baker*** v. State (1989), 42 Ill. Ct. Cl. 110, 115, citing Ohms *v. State* (1975), 30 Ill. Ct. Cl. 410.) Said duty of reasonable care requires that defective and dangerous conditions not exist on the highways. ***Baker,*** at 115, citing ***Moldenhauer*** *v. State* (1978), **32** Ill. Ct. Cl. 514.

However, a key issue with respect to the existence of such conditions is, as noted in ***Baker,*** whether the State

had actual or constructive notice of a dangerous condition and whether the condition was then permitted to exist without warning to the public. *(Baker,* at **115,** citing ***Clark*** *v.* ***State*** (1974), ***30*** Ill. Ct. Cl. **32.)** To be in a dangerously defective condition, the highway must be in a condition unfit for the purpose it was intended. ***Baker,*** at 115, citing ***Allen*** *v.* ***State*** (1984), ***36*** Ill. Ct. Cl. **24.**

The evidence adduced at the hearing in this matter discloses no actual or constructive notice of a dangerous condition at the location in question to the Respondent. Claimant's testimony as to how the accident occurred failed to establish any negligence by the Respondent which was the direct and proximate cause of the accident. Claimant has failed to meet his burden of proof as to negligence on the part of Respondent by a preponderance of the evidence presented.

It is hereby ordered that this claim be, and is hereby denied.

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(No. 87-CC-3500—Claim **dismissed.)**

**MARIE G. HONORE,** Claimant, *v.* **THE STATE OF ILLINOIS,** Respondent.

**Opinionfiled August 24,1992.**

**GREGORY** R. **SUN,** for Claimant.

ROLAND W. **BURRIS,** Attorney General **(JANICE L. SCHAFFRICK,** Assistant Attorney General, of counsel), for Respondent.

**NEGLIGENCE—*claim* for injuries caused by State employee—what Claimant must prooe. The Claimant, in an action** for **personal injuries allegedly caused by a State employee,** has **the** burden of proving **that the**

employee was negligent and that such negligence was the proximate cause of the Claimant's injuries.

SAME—*fall while riding in tow truck—claim dismissed with prejudice.* A woman's claim for personal injuries allegedly sustained when a State tow truck in which she was a passenger hit a curb causing her to fall between the seats was dismissed with prejudice, where the driver testified that he did not recall the incident in question, the woman failed to file a complaint or police report at the time of the alleged fall, and where, although she sought medical attention the day after the alleged incident, the woman produced no medical records indicating the extent of her injuries or how those injuries arose.

## OPINION

JANN, J.

This cause of action is brought before the Court by Claimant, Marie G. Honore, for personal injuries allegedly suffered when she was injured while riding in a "Minuteman" emergency vehicle (tow truck) owned by the Respondent and operated by an employee of the Department of Transportation (hereinafter Department). Claimant testified on her own behalf at a hearing held on her verified complaint for personal injuries.

The Claimant testified that she was traveling as a passenger in a taxicab eastbound on Interstate 90, also known as the Kennedy Expressway, on the evening of April 29, 1986. The taxicab lost power and came to a halt on the expressway. A State Police car and a State of Illinois tow truck arrived on the scene. The driver of the tow truck offered to transport Claimant to a location where she could obtain transportation. Claimant got into the truck and the driver continued eastward. The truck exited the expressway at Washington Street, within the City of Chicago, and proceeded east on Washington to Clinton Street. Claimant was seated in the passenger seat of the truck.

Claimant stated that while traveling on Washington Street, the driver swerved the truck to the right and the front wheels went up on the curb. Claimant fell out of

her seat and landed between the passenger seat and the driver's seat. Immediately prior to the truck swerving, the driver was handing Claimant a business card. She was reaching for the card when the truck swerved. She stated that the curb was eight inches in height. Claimant's Exhibits Nos. 1-A, B, C and D were photographs of the site where the tow truck allegedly struck the curb and were admitted into the record. Claimant was unable to testify to the speed of the truck when it hit the curb.

When she fell, she felt pain in her back, arm and knee, The next day she went to the emergency room of a hospital where X rays were taken and she was given pain medication. She testified she was bruised on her **back** from her shoulder to her leg. She received physical therapy. She still has pain in her back and has advanced arthritis of the spine. Claimant's Exhibits Nos. **2, 3** and **4** were medical bills and were admitted into the record. None of the bills admitted contained reports by the care providers as to the extent of Claimant's injuries or how the injuries arose.

The State presented the driver of the truck, David Barry, as a witness. He testified that on the evening of April 29, 1986, he picked up a woman after her taxicab had stalled on the Kennedy Expressway. He could not identify Claimant as the woman he assisted. He transported the woman to the Northwestern train station. In so doing, he drove east on Washington Street and turned at Clinton Street. He intended to give her his business card but inadvertently gave her the card of Erasmo Berrios. Barry and Berrios utilize the same vehicle in the course of their duties.

Barry stated that Claimant did not complain about the way he was driving, did not lose her balance in the

seat and did not fall out of her seat. He further stated that he did not recall running over a curb on the evening in question. Respondent's Exhibits Nos. 1, 2 and 3 were admitted into the record. These exhibits included a traffic patrol assist report and a communications center log report documenting Barry's response to the call for assistance to Claimant's taxi.

Claimant had filed an action against Erasmo Berrios in the circuit court of Cook County. The injuries complained of in the claim before this Court were the subject matter of that suit before the circuit court. That suit was dismissed in 1989 when Claimant was unable to testify that Berrios was the driver in question. Claimant, on rebuttal at the hearing on the instant claim, did identify Barry as the driver of the tow truck. This was the first time that the **driver** was identified to Claimant. She previously had no information available that Barry was the driver in question. Although counsel for Claimant initially complained that the State had not previously identified the driver, no objection to Barry's testimony was made at hearing.

Claimant has the burden of proving by a preponderance of the evidence that Respondent's employee was negligent and that such negligence was the proximate cause of Claimant's injuries. ***(Evans v. State*** (1988), **40** Ill. Ct. Cl. **140.)** Claimant failed to establish that Barry operated the tow truck in a negligent manner. She filed no complaint or police report at the time of the alleged incident and did not seek medical attention until the following day despite testifylng she was in great pain immediately following her fall.

Claimant testified to **her** knowledge of the alleged injuries and provided bills for medical treatment. However, **as** previously noted, no diagnosis or medical report

of the cause of the injury and the course of treatment was provided. Claimant's response to interrogatories indicated she had previously injured her shoulder and back and suffered from arthritis.

As Claimant failed to establish that she was injured in the manner claimed and failed to establish that the injuries were proximately caused by any negligence on the part of Respondent's employee, we must deny this claim. This cause is hereby dismissed with prejudice.

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(No. 87-CC-3588—Claim dismissed.)

**RONALD Lours,** Claimant, *v.* THE **STATE OF ILLINOIS,** Respondent.

*Order filed* May 3, 1989.

*Order filed February 24, 1993.*

RONALD LOUIS, *pro* se, for Claimant.

ROLAND **W.** BURRIS, Attorney General (DIANN K. MARSELEK, Assistant Attorney General, of counsel), for Respondent.

**PRISONERS AND INMATES**—*claim* **seeking** *compensation for* **lost** *property* **dismissed** *for* ***want of prosecution.*** Where the State moved to dismiss an inmate's claim seeking compensation for a stereo and other personal property allegedly lost due to the State's negligence, the motion, which was based upon the inmate's alleged attempt to submit an altered sales slip to the Administrative Review Board, was denied since the Board's observations were not relevant in the Court of Claims proceedings, but the State's subsequent motion to dismiss the claim for want of prosecution was granted.

## ORDER

MONTANA, J.

This cause comes on to be heard on the Respondent's

motion to dismiss, due notice having apparently been given and the Court being advised;

The Claimant, an inmate at a State penal institution, brought this claim seeking compensation for various items, including a stereo, which he alleges were lost due to the negligence of the Respondent.

The Respondent moved for dismissal of the claim on the grounds of fraud pursuant to section **14** of the Court of Claims Act (Ill. Rev. Stat., ch. **37,** par. **439.14).** It is the Respondent's position that the Claimant has attempted to perpetrate a fraud on this Court by submitting an altered sales slip **as** proof of the value of the stereo. In support of its motion, Respondent offered a copy of the decision of the Administrative Review Board to which the Claimant had previously submitted **his** claim. This document was described **as a** departmental report and offered **as** *prima facie* evidence pursuant to Rule **14** of the Court of Claims Regulations **(74** Ill. Adm. Code **790.140).**

The Respondent's motion is denied. Rule **14 (74** Ill. Adm. Code **790.140)** only accords *prima facie* evidence status to *facts.* We will admit the copy of the decision of the Administrative Review Board for the limited purpose of showing the fact that the Claimant has exhausted his administrative remedies. Its relevance for any other purpose is not apparent at this time. We will not accept as *primafacie* evidence of the truth of **the** matter asserted the Board's observations, conclusions, or findings on issues of fact involving litigation before the Board.

That the Board observed that a sales slip was "very noticeably altered" **is** not relevant to the proceeding here, This Court is not an appeals body for the Board. Proceedings here in cases such **as** the one at bar are ***de novo.*** The

Claimant has not even tried to introduce the sales slip at issue. It is not in the record.

Motion denied.

ORDER

FREDERICK, J.

This matter coming to be heard upon the motion of the Respondent, State of, Illinois, ex *rel.* Department of Corrections, to dismiss this cause for want of prosecution, due notice having been given to the parties hereto, and the Court being fully advised in the premises, it is hereby ordered that the instant claim be dismissed for want of prosecution.

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(No. 87-CC-3870—Claim dismissed.)

BETH DUNBAR, Claimant, *v.* THE STATE OF ILLINOIS, Respondent.

***Opinion** filed **August 31, 1992.***

ELLEN E. JENKINS, for Claimant.

ROLAND W. BURRIS, Attorney General (PATRICIA L. HAYES, Assistant Attorney General, of counsel), for Respondent.

NEGLIGENCE—*elements of claim—notice.* In order for a Claimant to recover upon a theory of negligence, she must prove by a preponderance of the evidence that the State has breached its duty of reasonable care, that said breach was a proximate cause of the Claimant's injuries and that the Claimant was injured as a result of said negligence, and the Claimant must also establish that the State had either actual or constructive notice of an alleged defect before recovery is allowed.

SAME—*duty of State to persons who visit its parks.* The State is not an

insurer of the safety of persons who visit its parks and recreational areas, but rather, visitors to State parks are invitees to whom the State owes a duty of reasonable care in maintaining the premises, as well as a duty to exercise ordinary care to protect invitees from harm, but the State is not required to undertake extraordinarily burdensome inspections or maintain its parks in such condition that patrons may wander at will over every portion thereof.

SAME—*fall in hole in wooded area of State fairgrounds—no breach of State's duty of care-claim dismissed.* **A** claim for an ankle injury sustained by a woman who fell into a hole while walking through a wooded area of State-owned fairgrounds was dismissed, where the Claimant, who had consumed five or **six** beers in the four hours preceding her fall, assumed the **risk** of her injury by choosing to leave a paved path at nightfall to cut through the unlighted, landscaped area which was not routinely used as a pedestrian pathway, and the State had no duty to foresee that the hole in question would lead to an unreasonable **risk** of harm to fair invitees.

## OPINION

JANN, J.

Claimant seeks damages for personal injuries sustained by her on August **24,** 1986, at the DuQuoin State Fairgrounds at DuQuoin, Perry County, Illinois. Claimant alleges that she fell in **a** hole and suffered a broken ankle due to Respondent's negligence.

Claimant, accompanied by her husband, visited friends and relatives at the Rend Lake Manna at Rend Lake and proceeded to the DuQuoin State Fairgrounds at approximately 6:00 p.m. Mrs. Dunbar and her husband walked the midway, talked with friends, and stopped to drink beer at a beer tent. Claimant and her husband left. the beer tent about 7:30 or 8:00 p.m. and walked through the midway into the grandstand with some acquaintances. Claimant testified she used a restroom at the grandstand and proceeded from the south end of the grandstand toward a circular wooded area surrounded by curbing and pavement.

Claimant testified she walked through the wooded area because it was a shortcut, although she also testified

she had no specific destination. She was walking alone at the time of the incident in question. Claimant said she took four or five steps into the wooded area and fell into a hole approximately 18 inches deep and six feet wide. She fell to her back and felt pain in her ankle.

It was dusk at the time Claimant fell and still somewhat light. There was no artificial lighting in the wooded area. There were no fences, barricades or pedestrian warnings posted to deter pedestrian traffic from the area. Claimant testified that it was darker and more difficult to see inside the wooded area than on the paved road which bounded the area. She stated that there were flattened areas of grass and plants which looked as if others had used it as a pathway. She was obliged to make her way around bushes, tree limbs and other holes to cross the wooded area. Claimant did not see the hole where she was injured before falling.

Claimant's husband, who had been walking with a group of others on the paved road, heard his wife call for help and proceeded into the wooded area to assist her. Mr. Dunbar testified that the hole had some grass and weeds inside but was not fully covered by vegetation. He said he had cut through the woods in prior years and had seen several open and obvious holes in the area. He also stated he had seen people using the area to consume alcohol and go to the bathroom. Under cross-examination, Mr. Dunbar said he had been through the area less than five times up to 1985.

At hearing, Claimant was asked why she went through the woods while the others in her company went around the woods on the paved walkway. She responded, "I have no answer for that." However, Claimant admitted on cross-examination that she had a disagreement with

her husband and was angry when she walked into the wooded area. She further admitted that her anger may have impeded her ability to look around and see what she was doing. Claimant also testified that she had consumed five or six beers in the 4½ hours preceding her injury. When questioned as to the effect of this quantity of alcohol, she said, "Oh, probably a little lightheaded or something. I don't know."

Respondent presented Michael DuBois, manager of the DuQuoin State Fair. Mr. DuBois testified that the fairgrounds is a park-like setting with no sidewalks and paving only on the roads. The area in question is a mature landscaped area of pine trees and shrubs surrounding it. It is surrounded by paving on all three sides and has no purpose other than as an esthetic accent to the property. The landscaping has been in place for **35** to **40** years and the perimeter shrubbery is quite heavy, standing at least three to four feet high. **A** pedestrian would have to brush by shrubbery to enter the landscaped area. After the State acquired the fairgrounds in 1986, nothing was done to the interior of the landscaped area. Mr. DuBois stated that there are no established walking paths through the area and only the outer edges of the landscaped area are mowed, as the area is not intended for pedestrian passage.

In order for Claimant to recover upon a theory of negligence, she must prove by a preponderance of the evidence that the State has breached its duty of reasonable care, that said breach is a proximate cause of Claimant's injuries and that Claimant was injured as a result of said negligence. ***(Acme Carrier, Inc. v. State*** (1977), ***32*** Ill. Ct. Cl. **83.)** The Claimant must also establish that the State had notice, either actual **or** constructive, of the purported defect before recovery is allowed.

*Hitt v. State* (1982), 35 Ill. Ct. Cl. 798; *Becker v. State* (1983), 35 Ill. Ct. Cl. 704.

This Court has held that the State of Illinois is not an insurer of the safety of persons who visit its parks and recreational areas. Visitors to State parks are invitees to whom the State owes a duty of reasonable care in maintaining the premises. (*Heimann v. State* (1977), 32 Ill. Ct. Cl. 111.) The State has an additional duty to exercise ordinary care to protect invitees from harm (*Jodlowski v. State* (1967), 26 Ill. Ct. Cl. 66), and to exercise reasonable care in the maintenance of its parks (*Finn v. State* (1962), 24 Ill. Ct. Cl. 177). However, the State is not required to undertake extraordinarily burdensome inspections or maintain its parks in such condition that patrons may wander at will over each and every portion thereof. *Lyons v. State* (1987), 39 Ill. Ct. Cl. 192; *Pulizanno v. State* (1956), 22 Ill. Ct. Cl. 234.

Claimant has not shown by a preponderance of the evidence that the State breached its duty of ordinary care. Claimant took a shortcut through a landscaped area where she had to push through large shrubs and bushes to gain entry. The hole or depression which Claimant alleges caused her injuries was large and readily apparent, although her visibility may have been limited as she chose to enter the area at dusk or early evening.

The fact that Claimant sustained an ankle injury as a result of the hole or depression shown to exist in the landscaped area in question does not, in and of itself, establish said hole or depression as a condition of such unreasonable danger that the State had a duty to foresee that the condition would lead to an unreasonable risk of harm to invitees of the DuQuoin State Fair. Where Claimant chose to leave the paved path and enter the landscaped area at nightfall,

she assumed the normal, obvious and ordinary risks attendant to the use of the property. There is no evidence in the record indicating the hole or depression where Claimant fell was anything other than a natural condition,

Claimant's evidence did not establish that the landscaped area was routinely used by large numbers of people, and, indeed, it seems from the record that the contrary is true. Therefore, the State cannot be held to have had notice of the use of the landscaped area as a pedestrian pathway. The State purchased the fairgrounds four months prior to Claimant's accident.

For the foregoing reasons, Claimant's claim for damages is denied and this cause is hereby dismissed with prejudice.

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*(No.* 87-CC-4140—Claim dismissed.)

MYOUNG MA AND BOK SOON MA, Individually and on behalf of their son, JI WONG MA, a minor, Claimants, *v.* THE STATE OF ILLINOIS, Respondent.

*Order filed May 17, 1993.*

GEORGE J. NETT, for Claimant.

DUNN, GOEBEL, ULBRICH, MOREL & HUNDMAN, for Respondent.

***NEGLIGENCE—what Claimant must establish to prevail.*** In order to prevail upon a negligence cause of action, the Claimant must establish the existence of a duty, a breach of said duty, and an injury which proximately results from the breach, and the existence of a legal duty requires more than a possibility of occurrence, and the State is charged with such duty only when the harm is legally foreseeable.

SAME—*duty owed by landowner to invitee.* A landowner has an obligation to use reasonable care and caution to keep his premises reasonably safe for use by a business invitee, but a landowner is not an insurer of the safety

of his invitees and an invitee assumes normal, obvious or ordinary risks attendant to the use of premises, and a landowner is not required to give warnings where such dangers are evident, unless he should have anticipated the harm despite such obviousness.

SAME—*degree of care to be exercised by minor for his personal safety.* A reasonable minor is expected to act with a degree of care for his personal safety which would be commonly expected of a person of similar age, mental capacity and experience under similar circumstances.

SAME—*child injured while playing on pipes—risk was obvious—State not liable.* Where a 3½ year old child fell and fractured his skull while playing, unattended, on a steam pipe system located near a playground on a State university campus, the record failed to disclose the State's negligence in the construction or maintenance of the system, in maintaining the play area near the pipes, or in failing to post warnings, since the existence of the pipes and the inherent risk of injury from playing on them was open, obvious, and known to the child and his parents, and there was no evidence that young children habitually played on the pipes or that any previous injuries to children had occurred from similar activity.

## ORDER

JANN, J.

The Claimants filed their complaint in the Court of Claims on June 17, 1987. Claimants allege that the State was negligent in constructing and maintaining a pipe system on the campus of Western Illinois University so close to a children's play area that it became a dangerous condition. Claimants further allege the State failed to warn residents of the danger. Claimant, Ji Wong Ma, fell off the

when he fell from a pipe on the campus of Western Illinois University. At the time of the accident, Ji Wong Ma was three years and seven months old. Myoung Ma was a student at Western Illinois University and Bok Soon Ma was a homemaker. At the time of the trial, Ji Wong Ma was eight years old and he was attending school in the third grade. The Mas lived in an apartment in East Village which is an apartment complex on the Western Illinois University campus. Outside the apartment is a children's play area. Down the hill from the play area is a grassy, woody area with heating pipes above the ground.

On January **14,** 1987, Ji Ma and his brother, Il Ma, and three other Korean children were playing on the playground near the residence of their parents. At the time of the accident, Il Ma was five years old. Il Ma testified he does not clearly remember the accident. Of the five children playing, Il Ma was the oldest. Initially, the boys' mother, Bok Soon Ma, was with the children on the playground sitting at a picnic table with two friends. When Myoung Ma came home for lunch, Bok Soon Ma went inside her apartment at East Village.

After Bok Soon went inside, the children headed down the hill for the pipes at the bottom of the hill. Two adults remained sitting at a picnic table at the time of the accident. These adults could not see the pipes from the table where they were sitting. All of the children had been playing on the pipes before the Claimant fell from a pipe.

Ji Wong Ma was the first child to climb out on the pipe. Il Ma testified he thought it was dangerous. He was scared of the pipe and had told his brother to stay on the lower parts. Ji Wong Ma crawled out on the pipe and fell off upside down. Ji Wong Ma fell from the second bend

in the pipe. The pipes come out of the side of the hill on the ground and are held above the ground by a suspension system.

Il Ma did not see his brother fall. The other children's yelling caused him to turn and he saw his brother was already on the ground. After Ji Wong Ma fell, the other children started running towards their home at East Village. Il Ma said a black man carried Ji Wong Ma to the Ravine Room between Washington and Lincoln dormitories. The other children led the man to the apartment of Myoung and Bok Soon Ma.

Ji Wong Ma fell from a steam pipe at a height of about seven feet and hit his head on a solid object, which was likely a part of the structure itself, causing an open depressed skull fracture. The structure was constructed by Respondent approximately 21 years before the date of the fall, and remained substantially the same from the time of construction until the date of the accident. East Village was in existence prior to the construction of the pipe structure and has been used for married student housing since it was built. From the time that the pipe structure was constructed until 1971, there was a creek running under the pipe structure.

The Claimants had moved into East Village approximately six months prior to the date of the accident. Myoung Ma had been in the United States less than four years, while Bok Soon Ma and Ji Wong Ma had been in the United States approximately six months. On the date of the accident, Bok Soon Ma and Ji Wong Ma spoke practically no English, while Myoung Ma's English was not fluent.

Claimants, Myoung Ma and Bok Soon Ma, both testified that they knew of the pipes. The children had

played outside daily for five to six months on an average of one to two hours. Bok Soon Ma had observed the pipes prior to the accident. Bok Soon Ma knew that her children had played on the pipes once while they were walking. Claimants, Bok Soon Ma and Myoung Ma, the parents, were in their apartment at East Village at the time of the fall. They had been inside for 20 minutes before the man came to the door to inform them of the accident.

In addition to the children being unsupervised by Claimants, Bok Soon Ma and Myoung Ma, on the date of the accident, Officer Gene Clark of the university police testified that he had observed Ji Wong Ma playing unsupervised in Sherman Hall in December of 1986. At that time, there were three to five children who were also unsupervised. Sherman Hall is three blocks from East Village where Claimants resided.

Officer Clark, who had worked at the university for 13½ years, was the public safety officer who responded to a radio call of an injured child in the Ravine Room between the Lincoln and Washington dormitories on the date in question. When he arrived, Ji Wong Ma was walking around. He was agitated and would not let the officer get close to him until his father arrived. Officer Clark offered to take the whole family to the hospital. They declined. The Mas took Ji Wong Ma to the Macomb Hospital. After some initial treatment, Ji Wong Ma was taken to the Peoria Hospital. He was in the hospital for seven to eight days. The medical bills which arose out of that treatment exceed $8,100. Ji Wong Ma suffered a depressed skull fracture when he fell. He had one focal seizure after the fall.

As a result of the accident, Ji Wong Ma has a scar on the right side of his head near the back which is in a comma shape. This scar is not visible. Both medical doctors

testified there was no permanent injury to Ji Wong Ma in their respective depositions.

Ji Wong Ma was eight years old and in the third grade at the time of the trial. He makes good grades and participates in numerous physical activities that boys his age would normally participate in.

There was no evidence presented that Respondent had knowledge that young children habitually frequented the vicinity around the pipes. Additionally, the testimony from numerous witnesses was that there had been no previous accidents on the pipes.

Officer Clark had worked at Western Illinois University as a public safety officer for **13%**years. He had also been an emergency medical aid technician since 1982. Officer Clark testified he knew of no other accidents on the pipes during his **13%**years on the force. Likewise, George Goehner who worked for the university for 23 years in a number of positions with the housing and physical plant departments also testified he had no official or personal knowledge of children being injured while playing in the vicinity of the pipes.

Respondent's witnesses, E. F. Raymond and Carol Hornell, searched the safety and police reports. They did not find any reports of children playing on the pipes or injuries arising therefrom. E. F. Raymond was the assistant director of the physical plant for 27 years at the university. In addition to reviewing the records, he stated he had no personal knowledge of personal injuries arising in the vicinity of the pipes.

## THE LAW

We must first determine whether the State was negligent in its construction or maintenance of the steam

pipe system. Claimants presented no evidence or testimony to prove negligence in the construction or maintenance of the steam pipe system. Respondent presented testimony that such a system is not unusual and that the presence of a small stream through the ravine (which the piping traverses) at the time of construction of the system made its design appropriate. Claimants offered no proof of failure to maintain the system other than the implication that it should be modernized. We find Respondent was not negligent in the construction or maintenance of the steam pipe system.

Claimants further assert negligence in the maintenance of the play area near the steam pipe system which they contend constitutes a dangerous condition. Claimants' exhibits indicate the play area is adjacent to the East Village complex. The testimony at hearing disclosed that the pipe system is approximately 300 to 400 feet from the center of the play area. The steam pipes are located in a ravine which has steep sides, one of which slopes away from the west perimeter of the play area. As Claimant Ji Wong Ma is and was a minor child at the time of his injury, several additional issues arise. Although Claimants' complaint did not explicitly state a charge of attractive nuisance, arguments made at hearing and in Claimants' brief indicate reliance on said doctrine. Respondents assert Ji Wong Ma's parents were contributorily negligent in failing to supervise their child and any finding by the Court for Claimants should be reduced accordingly.

We next address whether the steam pipes constituted a dangerous condition and whether the State had actual or constructive notice of a dangerous condition. In order to prevail upon a negligence cause of action, claimant must establish the existence of a duty, a breach of said duty, and an injury which proximately results from said

breach. *(Ondes v. State* (1991), **43** Ill. Ct. Cl. **272.)** The existence of a legal duty requires more than a possibility of occurrence, and the State, like any other party, is charged with such a duty only when harm is legally foreseeable. The issues of foreseeability and duty involve a myriad of factors, including the magnitude of the risk involved, the burden of requiring the State to guard against the risk, and the consequences of placing such a burden on the State. *Wilson v. State* (1989), **41** Ill. Ct. Cl. 50; *Ondes v. State* (1991), **43** Ill. Ct. Cl. **272.**

The duty owed an invitee is set forth in ***Ondes, supra,*** at ***276,*** and ***Thornburg v. State*** (1985), 39 Ill, Ct. Cl. **76. A** landowner **has** an obligation to **use** reasonable care and caution to keep his premises reasonably safe for use by a business invitee. However, a landowner is not **an** insurer of the safety of his invitees. Invitees assume normal, obvious or ordinary risks attendant to the use of premises. **A** landowner is not required to give precautions or warnings where such dangers or risks are evident in order to exercise the duty of reasonable care toward invitees unless the facts indicate the landowner should have anticipated the harm despite such knowledge or obviousness.

The record clearly shows that the steam pipe system was open and obvious and that Claimants Myoung **Ma** and Bok Soon Ma were personally aware of the existence of the system and its proximity to their apartment. Mrs. Ma had also warned her children not to play on the pipes, indicating that she acknowledged the patent risk involved. *Ergo,* we must determine whether the State had actual or constructive notice that harm should be anticipated despite the open and obvious nature of the system. Claimants presented no evidence that young children habitually played on the pipes. Respondent's records disclosed no

complaints or reports of injury resulting from similar activity in at least 10 years. Wherefore, we find the State has met its duty of reasonable care to Claimants **Bok** Soon Ma and Myoung Ma and had no duty to post warnings or issue precautions regarding the pipe system.

Under Illinois law, Claimant Ji Wong Ma, a minor aged three years, seven months at the time of his injury, is not held to the same standard of responsibility for his personal safety **as** an adult. *Russell* ***v.*** *State* (1990), 42 Ill. Ct. Cl. **83,** enunciates a standard which is essentially a "reasonable minor" test. **A** reasonable minor is expected to act with a degree of care which would be commonly expected of a person of similar age, mental capacity and experience under similar circumstances. No evidence was introduced to indicate Claimant Ji Wong Ma lacked the mental capacity of a typical 3½ **year** old. He had lived with his parents at the location in question for approximately six months. He testified that he had played on the pipe system prior to the accident and had been told by his mother that he was not to play there. I1 Ma, minor Claimant's brother, also testified he had warned Ji Wong Ma that playing on the pipes was dangerous. Claimant's brief implies that **as** Ji Wong **Ma** and his mother spoke very little English, they were somehow incapable of ascertaining the risks imminent in a small child playing on the piping. Testimony by all three Claimants refutes this contention. We find the doctrines set forth in *Alop* ***v.*** *Edgewood Valley Community Association* (1987), 154 111. App. 3d 482, and *Young* ***v.*** *Chicago Housing Authority* (1987), 162 Ill. App. 3d 53, 515 N.E.2d 779, are controlling in the case now before us. *Young, supra,* affirmed *Alop, supra,* stating that a "commonsense" principle applies in such cases. If a child crawls or climbs onto a structure some distance from the ground, he is presumed

to know that a fall may result in injury. The reasoning behind the court's finding was that such activity presented an obvious **risk** which children encounter in daily life. Although the children in Young and ***AZop*** were ages six and five, respectively, we find the record presents no reason why Claimant Ji Wong Ma should not be held to the same standard. We therefore find that Ji Wong Ma was aware of the risk of injury inherent in playing on the pipes and Respondent has not breached its duty of reasonable care owed to Claimant.

Claimants' brief and certain arguments at hearing indicate reliance on the doctrine of attractive nuisance. ***Griffin v. State*** (1983), **36** Ill. Ct. Cl. **206,** discusses the historic application of the doctrine and holds that

**"for all practical purposes, the application of the rules of ordinary negligence cases actually govern the outcome of suits by child trespassers. The element of attractiveness is significant only insofar as it is indicative that the trespass should be anticipated; the true basis of liability is the foreseeability of harm to the child."**

The *Griffin* court went on to apply the findings of ***AZop*** and Young, previously discussed in this opinion, which held there is no duty to remedy a condition if it involves risks which children may appreciate and avoid. We, therefore, find Claimants have failed to prove Respondent negligent under an attractive nuisance theory.

For the foregoing reasons, we must deny the claims of Ji Wong Ma and his parents Myoung Ma and Bok Soon **Ma.** This claim is hereby dismissed.

(No. 88-CC-0396—Claimant Mary Doe awarded $50,000.)

MARY DOE and CARRIE DOE, a minor by her Mother and Next Friend, MARY DOE, Claimants, *v.* THE STATE OF ILLINOIS, Respondent.

*Order filed November 13, 1991.*

*Opinion filed November 13, 1991.*

*Order filed March 25, 1993.*

SPINAK, LEVINSON & BABCOCK, P.C., for Claimant.

ROLAND W. BURRIS, Attorney General (GREGORY ABBOTT, Assistant Attorney General, of counsel), for Respondent.

HOSPITALS AND INSTITUTIONS—*woman raped by fellow patient at medical facility—State's* negligence *established—award granted* In claims filed by a mother and her daughter stemming from the rape of the mother by a patient at a State medical facility where the mother was hospitalized with a mental disorder, the evidence established the State's negligence where the hospital failed to prevent the mother, whose psychotic condition rendered her incapable of consenting to a sexual act, from coming into contact with the offender who had a history of sexual violence, and the mother was awarded $50,000; but the daughter's claim was denied since the rape had no effect on the mother's ability to care for her daughter.

## ORDER

BURKE, J.

This cause comes on to be heard on the Court's own motion;

It is hereby ordered that:

1. For purposes of publication of the decision entered previously herein, the caption should be reported as Mary Doe and Carrie Doe, a minor by her mother and next friend Mary Doe, and that any reference to the parties by name in the body of the decision be likewise altered.

2. That the record on this matter be sealed and is not to be made available for public inspection unless necessary

measures are taken to insure the anonymity of the Claimants or further Court order is obtained.

OPINION

BURKE, J.

Claimant brings this action sounding in tort, seeking damages of $100,000 pursuant to section 8(d) of the Court of Claims Act (Ill. Rev. Stat., ch. 37, par. 439.8(d)), on behalf of herself and her minor daughter. Claimant alleges that while hospitalized at Madden Health Center, she was raped by another patient on December 20,1986.

The Claimant is 40 years of age and has an extensive education. She holds a Bachelor's degree in psychology and a Master's degree in communication. She worked in various sections of mental health programs from 1972 to 1986.

On December 18, 1986, Claimant was en route to pick up her niece from school when she became confused, got lost, and went to the Du Page Health Clinic. She was crying and unable to speak. Paramedics took her to LaGrange Memorial Hospital. When it was determined that she had no insurance, she was taken to Madden Health Center.

Upon arrival at Madden Health Center, Claimant was out of control, restless, yelling and screaming or singing. She was diagnosed with atypical psychosis. Atypical psychosis has a sudden onset, severe symptoms and clears up quickly. Claimant was transferred out of the common area and placed in full leather restraints in a small room because she was exposing her genital area. When she was released from full leather restraints, Dr. Chin, a psychiatrist and employee at Madden Health Center, ordered close observation of Claimant because in cases of atypical psychosis behavior changes from day to day.

Close observation, as ordered by Dr. Chin, required the patient be observed every 15 minutes to protect her from sexual assault because she was disrobing and might have sexual intercourse with other patients. Claimant was transferred to Pav. 3 where three or four staff members supervised 39 patients. There were no security personnel. David Martinez, who had intercourse with Claimant, was also housed in Pav. 3. Mr. Martinez had a long criminal history with a violent sexual activities record.

Dr. Andrew Byrne, a psychologist employed at the Madden Center, recites the following findings in his examination of Claimant:

"Patient complained of being under various family and financial pressure for the past 18 months and under pressure from her own illness and those of her parents * * *. Patient was wandering the streets with her 6 months old baby * * *"

"Patient was observed laying in pit floor with gown exposing genitals, grabbing at male peers and pulling them on top of her. In addition, patient allegedly kicked and struck out at staff * * *. Patient was taken out of full leather restraints and transferred to Pav. 3, where once again, laying in the pit, attempted to take off her clothing, praying and singing loudly * * * began kicking and biting and replaced in leather restraints * * *. At 2:10 p.m. (on December 20, 1986), a patient reported to nursing section that Claimant was having sex with another patient * * *."

Claimant stated that she was confused and that she felt that she had to have sex with another patient since she thought the other patient was a staff member. The nurse who examined Claimant after the incident stated that Claimant's uterus was enlarged and bleeding; she saw scratches on Claimant's back and blood on the sheets and gown as well as inside her thighs. This condition could have been due to Claimant's menstrual period.

Barbara Noonan, R.N., a psych nurse employed since 1986 at the Madden Health Center, stated her opinion as to Claimant's capacity at the time of the incident:

"I spoke with her, and yes, correct, I did not feel she was mentally able to make such a decision. In that kind of incident, *we have to call it rape.*"

The evidence reflects that a sexual act occurred between Claimant and the offender, that such act occurred by force, evidenced by the bruises and scratches on the body of Claimant, and that such act meets the statutory definition of rape. Further, the history of Claimant's psychotic condition refutes the possibility of "consent." As for responsibility of Respondent for the incident complained of, the history of Claimant, examinations conducted by Respondent's employees at the Madden Health Center and their failure to keep Claimant from coming into any contact with the offender were negligent.

To determine whether the act complained of affected the ability of Claimant to care for her daughter, the evidence presented indicates that the psychotic condition, prior to the aforesaid incident, had the same effect on such custody and care of a baby as did her condition after said incident.

It is hereby ordered:

1. That the Claimant, Mary Doe, is awarded $50,000 in full and complete satisfaction of this claim.

2. That claim of Came Doe, daughter of Mary Doe, is denied.

ORDER

BURKE, J.

This cause comes on to be heard upon the parties' petitions for rehearing, and the Court being fully advised in the premises.

It is hereby ordered that the petition for rehearing is hereby denied.

(No. 88-CC-0566—Claim denied.)

JOHN DOYLE, Claimant, *v.* THE STATE OF ILLINOIS, Respondent.

*Opinion filed June* 29, 1993.

MARSHALL R. DUSENBURY, for Claimant.

ROLAND W. BURRIS, Attorney General (CAROL J. BARLOW, Assistant Attorney General, of counsel), for Respondent.

***HIGHWAYS—negligence—notice*** of ***dangerous*** *condition* of ***highway shoulder required to establish liability.*** If the State has caused a dangerous condition by neglecting to maintain the shoulders of the highway after having had actual or constructive notice of the defect requiring such maintenance, it is reasonably foreseeable that an injury may result therefrom, and if the dangerous condition of the shoulder is a proximate cause of the injury, that is sufficient to establish liability.

***SAME—defect in shoulder*** of ***roadway—no*** *proof* ***that State had notice—claim denied*** In the Claimant's action seeking damages for injuries he sustained when his van rolled over after encountering a five-inch drop-off in the shoulder of the highway, where there was no proof offered that the State had notice of the alleged defect or that a defect of sufficient magnitude to establish liability in fact existed, the claim was denied.

## OPINION

PATCHETT, J.

This is a claim which arose out of a traffic accident which occurred on February 5, 1987. At 3:30 p.m., the Claimant was driving home from work southbound on Illinois Route 45 north of Bourbonnais, Kankakee County, Illinois. He was driving a 1974 Chevrolet van which he had allegedly purchased two to three weeks prior to the date of the accident. The van was not yet titled in his name.

At a point approximately one-half mile north of Indian *Oaks* Road, his van left the highway. When asked if the road was slippery, he stated that he "fell off the

edge." He testified that he slowed down to get back on the road and got caught in a big rut on the side of the road. He jerked his van around and slid to the side. It then started rolling. His opinion was that the cause of the accident was a defective shoulder.

The van was totaled. The market value of the vehicle at the time of the accident was *$750* to $800. He paid **$248** to Conway Towing to have the van towed from the scene. The van was later junked.

Illinois State Trooper S. Learner investigated the accident. His narrative report was introduced into evidence, but the trooper was not called by either party.

Plaintiff introduced **13** photographs into evidence. These were taken by the Claimant's sister, in his presence, *two* days after the accident. The photographs were admitted without objection. The Claimant testified that he recognized the place of the accident because of the scrapes on the road where the van stopped. He then testified, "I looked back down the street, and I could see where I came off the road."

The Claimant further testified that the rutted area was 300 or 400 feet and its depth was five inches. He testified that he took a soda can, which was approximately 5½ to **6** inches tall, to the scene and placed it next to the groove on the road while taking photographs.

After the accident, he was taken to a Kankakee hospital where he received emergency treatment. X rays were taken and his finger and right knee were cleaned. He was given a sling and sent home. He later saw an orthopaedic surgeon who suggested surgery on his left shoulder because it would pop out every time he put pressure on it. He had the surgery a week later. He could

not move his left shoulder during the time period between the accident and the surgery.

The pre-operative and post-operative diagnosis were the same (third-degree acromioclavicular Spartan left shoulder). A pin was removed on March **3,** 1987, and on March 10, 1987, he was instructed in the use of exercises. He was discharged on March 17, 1987. The medical record for that date stated that,

"John has no pain today, no tenderness, a full range of motion and he is certainly a lot stronger than **I** am. We will see him **back** on a prn basis."

Despite this, at trial the Claimant demonstrated some minor loss of upper extension. He further stated that he had pain occasionally, but his mobility was not reduced. He testified that he did have pain every evening, but he had not seen a doctor about the nightly pain.

At the time of the accident, the Claimant was working for Popko Insulation in Chicago Heights. He was off work for three months and earned approximately $350 net per week prior to the accident. At the time of the trial, the Claimant drove a semi-trailer truck for a living. He performed all activities as well at the time of the trial as before the accident.

Upon cross-examination, the Claimant admitted that he did not see any skid marks where he dropped off the road. He further stated that when his van went off the shoulder, he slowed down to 55 miles per hour and tried to get it back on the highway. It then rolled over three times. When he returned to the scene of the accident, he saw scrapes on the road from the top of the van, although no photographs of them were taken.

Raymond Mulholland of the Illinois Department of Transportation was called by the Claimant's attorney as an

adverse witness. Mr. Mulholland was a field maintenance engineer for the Illinois Department of Transportation who was responsible for the maintenance of the stretch of highway where the accident occurred. He testified that in order to maintain the shoulders of the highway, they would be dragged in the fall and spring. Dragging is done by a grading blade on the back of a tractor. One of the blades is placed on one end of the pavement, and the other blade off the shoulder. He testified that he would learn of drop-offs that needed to be repaired by his inspection or information from lead workers, foremen, maintenance workers, police, or motorists.

Upon being shown two of the photographs taken by the Claimant's sister which showed the top of the soda can slightly below or even with the surface of the road, he testified that if he had observed a condition within his jurisdiction as depicted by those photographs, he would have taken action to correct the situation. He further stated that the conditions exhibited in the photograph were in fact dangerous conditions. He further testified that his records disclose that stone was added to the shoulder on March **3,** 1987. When called by the Respondent as a witness, Mr. Mulholland testified that he inspected the roads weekly. After looking at the photographs he stated that a drop-off the size indicated in the photographs should have been seen. He indicated that he would have made a note of it and programmed it to be repaired. He stated that it was possible that in five weeks he might have not seen the problem, but he should have seen it. He did not testify that in fact he had seen it.

Mr. Mulholland first learned of the accident by receipt of a police report. He received the report within one to two weeks of the accident. He went out to investigate. The police report showed that the shoulder was soft,

but no other defects were noted. Three photographs of the alleged accident scene which had been taken by the Department were admitted into evidence. One of these photographs showed a matchbook on the side of the road demonstrating a one- to two-inch offset from the edge of the pavement, Mr. Mulholland testified that picture No, 3 introduced by the Respondent (the matchbook photo), had probably not been taken at the same location as the two photographs previously referred to as taken by the Claimant's sister. The engineer said that the transverse crack across the pavement exists in both of the Claimant's exhibits, and that three photographs introduced into evidence by the Illinois Department of Transportation showed no such transverse crack. He said that the difference of location could have been from a few feet to 20 or 30 feet apart.

Mr. Douglas Harms, who was employed by the Department as a highway maintainer, also testified. In response to questioning by the Claimant's attorney, he testified that most of his work was plowing snow and cleaning and removing debris. He testified that there was no snow on the ground on the day of the accident. He further testified that if he had seen a dangerous condition as depicted by the Claimant's photographs, he would have notified his immediate supervisor, who would have then notified the engineer. When called as a witness by the Respondent, he testified that they frequently drove on the shoulder checking for missing reflective marker tapes on metal posts. They also look for defects on the shoulder of the road. If he had seen the situation as depicted in the photographs, he would have reported it. He did not recall if any of the stone which was placed on the road a month after the accident was placed near or at the scene of the accident.

Joseph Butler, an Illinois Department of Transportation highway maintainer, testified that if he had seen a drop-off as exhibited in the Claimant's photographs, he would have returned to the yard and reported it. He also stated that he had seen worse drop-offs. He testified that he did not remember reporting any such defects. If he had made a report, it would have been by radio. He did not know if he had plowed any snow on Route 45, but testified that when plowing snow, he couldn't see defects because they were covered up.

Obadiah Gathing testified similarly to Mulholland and Butler, Records indicated that he was in the area of the accident on December 17 and December 19, 1986. He did not remember seeing any defects at those times.

More interesting perhaps than the testimony of those witnesses who did testify were those who did not. Neither party called the State trooper who investigated the accident. Neither party called John Burnett of Kankakee who was listed as an eyewitness in the trooper's report.

Obviously, the State has a duty to maintain the shoulder in a reasonably safe manner. However, there was absolutely no evidence produced at this trial that the State had either direct notice or constructive notice of the defect in question. This Court has repeatedly addressed shoulder drop-off cases, and rarely found liability. In ***Welch v. State*** (1966), 25 Ill. Ct. Cl. 270, this Court did find for the claimant. The situation there involved an extremely hazardous condition existing on the shoulder of the road. In a prior case, ***Lee v. State*** (1964), 25 Ill. Ct. Cl. 29, we denied a claim for an alleged defect consisting of a three- to four-inch difference in the level of the pavement and the level of the shoulder. We again denied a

similar claim in *Alsup v.* ***State*** (1976), 31 Ill. Ct. Cl. 315, for a drop-off of four to six inches. In *Hill v.* ***State*** (1978), 32 Ill. Ct. Cl. 482, we denied a claim for an alleged defect which included a six-inch drop-off.

This Court did find liability in ***Siefert v. State*** (1989), ***42*** Ill. Ct. Cl. 8. In ***Siefert,*** this Court held:

"Most of the cases involving highway shoulders which have been decided by this Court up until now have held for the Respondent. Only in the case of ***Welch*** *v. State* (1966), 25 Ill. Ct. Cl. 270, was there a finding for the Claimant. That case involved an extremely hazardous condition existing on the shoulder of the road * * *. In a case decided just before the ***Welch*** opinion, *Lee v. State* (1964), 25 Ill. Ct. Cl. **29,** the claim was denied. In that case, the alleged defect was minimal, consisting of a three-to-four inch difference in the level of the pavement and the level of the shoulder * * *. In the case of *Alsup v.* ***State*** (1976), 31 Ill. Ct. Cl. 315, the claim was again denied * * * [and] the defect complained of was a four-to-six inch drop off between the level of the highway and that of the asphalt shoulder * * *.

**In the case** of *Hill v. State* (1978), *32* **Ill. Ct.** Cl. 482, the **claim was** denied * * * which included a six-inch drop off." (*Siefert*, at **11-13.)**

Further, in Siefert, the Court said:

'We hold that this type of accident, with resulting injuries, is reasonably foreseeable as a result of negligent maintenance of highway shoulders. We do not modify or overrule many previous decisions which hold that the State is not an insurer of each motorist's safety on the highways * * *. We hold that if the facts in a case show that the State has caused a dangerous condition by neglecting to maintain the shoulders of the highway, after having had actual or constructive notice of the defect requiring such maintenance, it is reasonably foreseeable that an injury may result therefrom. If that dangerous condition of the shoulder is a proximate cause of an injury, that is sufficient to establish liability." ***Siefert,*** at **14.**

In this case, there was simply no proof offered that the State had any kind of notice of a defect. Lacking proof of notice, the State, not being the insurer, is simply not liable. In addition, there was insufficient evidence that a defect of sufficient magnitude existed. We deny this claim.

(No. 88-CC-0634—Claim denied.)

BOBBY COX, SR., and JUDY COX, Claimants, *v.*
THE STATE OF ILLINOIS, Respondent.

*Opinion filed January 20,* 1993

HASSELBERG & ROCK, for Claimants.

ROLAND W. BURRIS, Attorney General (MARY ELISE WALDEN, Assistant Attorney General, of counsel), for Respondent.

HIGHWAYS—*automobile accident—frost on bridge—State not liable for failure to treat or warn—claim denied.* Although the State has a responsibility to treat its bridges for moisture in a reasonable manner, and to warn of the condition of the bridges if they are not treated, the State is not an insurer of the condition of its highways and, in the Claimants' negligence action arising out of a car accident on a frost-covered bridge, where only 45 minutes elapsed from the time of the first evidence of moisture accumulation until the accident, the State could not be held liable for failing to do an act which it had a reasonable opportunity to perform, and the claim was denied.

## OPINION

PATCHETT, J.

This case arises as a result of an auto accident which occurred on November 22, 1985, in Danville, Illinois. There is a four-lane bridge on State Route 150 in the city of Danville known as the Ellsworth Park Bridge. The Illinois Department of Transportation has responsibility for maintenance of this bridge, and the bridge is located approximately five or six blocks from the Department of Transportation storage area. The bridge is a very heavily used bridge in the Danville area.

The Danville transportation area is divided into three sections, the north, the central, and the south. The Ellsworth Park Bridge lies within the central section. A truck is assigned to each section.

On November 21 and 22, 1985, the weather forecast contained a 70% chance of sleet and/or freezing rain. A

truck patrol was sent out on the evening of November 21, 1985, to watch for evidence of sleet or frost, and to treat the road after sleet or frost was discovered. The Department of Transportation policy was to treat bridges first because bridges would freeze before roadways. In addition, employees are to treat the most heavily traveled areas first.

At approximately 6:00 a.m., on November **22,** 1985, frost started to develop on the bridges and several accidents were reported to the Illinois Department of Transportation.

**A** Department of Transportation employee who drove the truck assigned to the central section testified that he had treated the bridge at 5:10 a.m., although that was probably before moisture began to form. **At** approximately 6:45 a.m. on November **22,** 1985, the accident in question occurred. The accident was serious, and there is no doubt that serious damages were incurred as a result of the accident.

The real question before this Court is whether a tort has been committed for which the State is responsible. The State undoubtedly has a responsibility to treat its bridges for moisture in a reasonable manner, and/or to warn of the condition of the bridges if they are not treated. However, the State is not an insurer of the condition of its highways. In this case, only 45 minutes elapsed from the time the first evidence of moisture accumulation occurred until the accident. There was simply not enough time, given the present set of facts, for which the State can be held liable for failure to treat or failure to warn. We therefore hold that the State did not fail to do an act which it had a reasonable opportunity to perform, and therefore is not liable for the unfortunate accident which

occurred in this case. *Illinois Ruan Transport Corp. v. State* (1973), 28 Ill. Ct. Cl. 323; *Schuett v. State* (1984), 36 Ill. Ct. Cl. 62; *Calvert & Williams v. State* (1985), 38 Ill. Ct. Cl. 104; *Pryor v. State* (1983), 35 Ill. Ct. Cl. 741.

For the foregoing reasons, we hereby deny this claim.

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(No. 88-CC-0945—Claim denied.)

JAMES WATKINS, Claimant, *v.* THE STATE OF ILLINOIS, Respondent.

*Opinion filed July* 10, 1992

JAMES WATKINS, *pro se*, for Claimant.

ROLAND W. BURRIS, Attorney General (KIMBERLY DAHLEN, Assistant Attorney General, of counsel), for Respondent.

EXHAUSTION OF REMEDIES—*all other remedies must he exhausted before seeking relief in Court of Claims.* Rule 6 of the Court of Claims Regulations and section 24—5 of the Court of Claims Act require that a person, before seeking final determination of his claim before the Court of Claims, shall exhaust all other remedies and sources of recovery, whether administrative or judicial.

PRISONERS AND INMATES—*claim for negligent loss of inmate's funds denied—failure to exhaust administrative remedies.* Where an inmate filed a claim against the State for its alleged negligence in permitting another inmate to identify himself as the Claimant for purposes of making commissary purchases, thereby resulting in the loss of money from the Claimant's trust fund, the claim was denied, since the inmate failed to exhaust his administrative remedies by appealing to the Administrative Review Board after the Institutional Inquiry Board denied his grievance.

OPINION

PATCHETT, J.

Claimant, an inmate with the Illinois Department of Corrections, seeks judgment against the State of Illinois

for his alleged loss of funds arising from the charged negligence of the Respondent. Respondent allegedly permitted another inmate to identify himself as the Claimant for the purposes of making commissary purchases, thereby causing the loss of **$192.02** from the Claimant's trust fund.

The issue of "exhaustion of administrative remedies" was properly and timely raised by the Respondent at the outset of the hearing of this cause. Rule **6** of the Court of Claims Regulations **(74** Ill. Adm. Code **790.60)** provides as follows:

"As required by Sec. **25** of the Court of Claims Act (Ill. Rev. Stat. **1979,** ch. **37,** par. **439.24-5),** the claimant shall before seeking final determination of his claim before the Court of Claims exhaust all other remedies, whether administrative, legal or equitable."

Section **24** of the Court of Claims Act provides as follows:

"[Exhaustion of other remedies for recovery—Exception.] Any person who files a claim in the court shall, before seeking final determination of his or her claim exhaust all other remedies and sources of recovery whether administrative or judicial; except that failure to file or pursue actions against State employees, acting within the scope of their employment, shall not be a defense."

The issue presented in this case is whether the Claimant must appeal from an adverse decision of the Institutional Inquiry Board before bringing a claim in the Court of Claims. In this case, when the Claimant discovered his money missing from the trust fund, he filed a grievance with the Institutional Inquiry Board on December **31, 1986.** The Inquiry Board met and interviewed the Claimant on January **11, 1987.** The Board then recommended that his grievance be denied. The Illinois Administrative Code provides that if the Claimant did not feel that his grievance had been resolved to his satisfaction, he could appeal in writing to the director or his designee. **(20** Ill. Adm. Code, ch. I, sec. 504—850).

This appeal procedure requires that the appeal be in writing. The director or his designee then reviews the grievance, the response of the Institutional Inquiry Board and the warden, and determines whether the grievance requires a hearing before the Administrative Review Board. The Administrative Review Board is appointed by the director to consider such appeals.

In the present case, the Claimant testified that he did not perfect any appeal from the adverse decision of the Institutional Inquiry Board. The Claimant was offered, but refused, a continuance of the hearing in order to enable him to appeal the adverse ruling of the Institutional Inquiry Board.

The Respondent argues that the Claimant has not exhausted his remedies, and, therefore, this Court has no jurisdiction to consider his claim. In support of its position, the Respondent cites *Morris v. State* (1979), **33** Ill. Ct. Cl. **173,** and *Blackwell v. State* (1984), **36** Ill. Ct. Cl. **328.** In the *Morris* case, the claimant had filed a successful grievance with respect to a portion of his claim, but had failed to file a grievance as to his claim for funds. He then presented his claim for funds to the Court of Claims. This Court held that since the claimant had not pursued his claim for funds before the local board at Menard, he had not exhausted his administrative remedies available to him. Thus, the claim was denied.

In the *Blackwell* case, this Court observed that it appeared from the record that the claimant had not exhausted his administrative remedies before filing his complaint. This Court therefore dismissed that complaint. An additional ground for the decision in the *Blackwell* case appeared to be that the complaint had been drawn in an unintelligible manner.

This Court has previously interpreted the provisions of the Court of Claims Act and the Court of Claims Regulations to require exhaustion of remedies to apply and be nondiscretionary. There are times when we have not required claimants to exhaust, or to pursue, remedies which are unreasonable due to a small chance of success. However, those exceptions clearly do not apply in the present factual situation. Claimants who are inmates of correctional institutions in the State of Illinois must seek review by the Administrative Review Board of any adverse decisions of the Institutional Inquiry Board before they bring a claim to this Court.

Therefore, we do not need to reach the merits of this particular claim regarding the loss of trust funds. Because the Claimant failed to appeal an adverse decision from the Institutional Inquiry Board, he is precluded from bringing this claim. This claim is therefore denied.

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**(No. 88-CC-0993—Claim denied.)**

CLETUS WALL and MARY LOU WALL, Claimants, *v.* THE STATE OF ILLINOIS, Respondent.

***Orderfiled November*** 9, 1992.

C. MICHAEL WITTERS, for Claimants.

ROLAND W. BURRIS, Attorney General (PHILLIPS MCQUILLAN, Assistant Attorney General, of counsel), for Respondent.

NEGLIGENCE—*proof required* to *establish* liability. **In order to prevail on a claim of common law negligence, a Claimant must show a duty owed by the defendant to the plaintiff, a breach of that duty, and an injury proximately caused by the breach, but liability cannot be predicated on surmise or conjecture as to the cause of the injury, and proximate cause can only be**

established where there is a reasonable certainty that the defendant's acts caused the injury.

REAL PROPERTY—*landowner may not interfere with ditches or natural drains on property.* Pursuant to the Illinois Drainage Code, a landowner may not willfully or intentionally interfere with any ditches or natural drains crossing his land in such a manner that such ditches or natural drains shall fill or become obstructed with any matter which materially impedes or interferes with the flow of water.

SAME—*owner of lower land cannot stop natural* flow of *surface water onto property.* Where water from one tract of land falls naturally upon the land of another, the owner of the lower land must suffer the water to be discharged upon his land and has no right to stop or impede the natural flow of the surface water.

NEGLIGENCE—*collapse of basement wall due to flooding—no proof that drainage system caused damage—claim denied.* There was insufficient evidence to support the Claimants' allegations that the State's negligent installation, operation and maintenance of a water drainage system across their property caused the collapse of their basement wall due to flooding on the property, where there was nothing in the record to show that any act or omission by the State with respect to the system contributed to the collapse, and where the Claimants' own actions in closing a 40-foot ditch behind their home significantly reduced the runoff of water from their land.

## ORDER

*BURKE,* J

Claimants, Cletus Wall and Mary Lou Wall, seek to recover from Respondent for its alleged negligence, as a result of which Claimants' cinder block basement wall collapsed due to flooding. The house is situated on the east side of SBI Route No. 1 on the south side of the Village of Patton, Wabash County, Illinois. The Claimants owned their home since 1980.

Claimants contend that on May 26, 1986, as a result of a five-inch rain over a period of several hours, water escaped from Respondent's surface water collection system and was allowed to "pond" against Claimants' home, thereby resulting in the collapse of the basement wall. Claimants allege that this surface water drainage system within the right-of-way of SBI Route No. 1 failed or was

inadequately designed and was the proximate cause of the property damage sustained by Claimants. More specifically, Claimants contend that the Respondent

(1) failed to properly maintain the drainage system to prevent its failure during periods of high water movement;

(2) installed and operated a drainage system inadequate to transport the amounts of water known to accumulate in the area the system was intended to serve; and

(3) operated its drainage system over and across Claimants' land without authority and without notice to Claimants.

Respondent denied the allegations.

When Claimants acquired their home, there was a 40-foot long open ditch behind their house, running in a generally east and west direction toward a railroad embankment. Claimants testified that two 12-inch clay pipes emptied into the west end of the open 40-foot ditch. The ditch was approximately four feet wide and three feet deep. Claimant Cletus Wall stated that upon acquiring the property he closed up the 40-foot ditch, but connected a 16-inch pipe to the ends of the 12-inch lateral clay pipes and into a culvert tile under the railroad tracks at the rear of his property. Claimant then filled up the entire ditch. The railroad embankment at the back of Claimants' property acted like a dam. In addition to running the 16-inch pipe to the head of the ditch, Claimant also ran two four-inch flexible plastic lines from ground level into the culvert under the railroad tracks.

Respondent installed the surface water collection system draining the entire south half of the Village of Patton, Illinois, in 1957. All of the water collected by the system

collected in a manhole located directly in front of Claimants' home on the east side of SBI Route No. 1. Respondent connected the manhole to two preexisting 12-inch clay tiles which had been installed running in a generally east and west direction through Claimants' property and installed by persons ,unknown. Respondent's engineers testified that the twin 12-inch clay tiles had not been installed by the Respondent. Hespondent disclaims any responsibility whatsoever for maintaining the clay tiles, notwithstanding the fact that Respondent's 1957 installation of manhole No. 7 utilized the clay tiles in moving the water from the manhole to the east through Claimants' property.

Robert Brinkopf, a maintenance field engineer for the Illinois Department of Transportation who supervised Wabash County, was made aware of the flooding conditions in Patton. He stated that the drainage system was designed to drain the water from the center of Patton south and consisted of a combination of 12- and 15-inch concrete pipe drains installed laterally down the highway to various inlets which finally connect to a three- by two-foot concrete box culvert beneath the highway which drained into the two vitrified clay pipes going through the Claimants' property. The only other way that water could move from the south side of Patton was over the surface of the ground. The Claimants' property lying east of the highway naturally received water from land west of the highway due to the topographic features of the land. Respondent did not install or maintain the clay pipes and did not assume responsibility for them. Brinkopf stated that at the time of the incident in question, the water overflowed the roads and that there was substantial water all over Patton. Brinkopf also testified to the plans of the highway and drainage at the location. He stated that

drainage was accomplished by open ditches along either side of the highway through culverts under the highway and through open ditches easterly through pipe culverts under the railroad. Department records showed no evidence that the State of Illinois installed the lateral clay pipes and the State did not use vitrified clay pipe in road construction around the Village of Patton. The State never had an easement across the Claimants' property. The clay pipes were in existence prior to the installation of the manhole. The westerly opening of the clay pipes was evidently on State right-of-way or at the edge of State right-of-way. The State did nothing to divert the water to Point 7 that was not already going to Point 7. The closing of the open ditch reduced the amount of surface water that could have gotten away at the Claimants' location, and there was a significant difference in the amount of water that could be moved because of the lack of the open ditch. Mr. Brinkopf testified that there was no indication that the clay pipes collapsed or contributed to Claimants' problem.

Claimant Cletus Wall testified that when he moved to the property he knew there was a drainage tile from the manhole running across his property but he did not know where it went or how it ran. He testified there was an open ditch on the back 40 feet of his property between the drainage tile and the railroad "dam" that began approximately 20 feet behind the back of his house and ran to the railroad track where there was a culvert. Claimant knew that pipes from the direction of the manhole emptied into the ditch. Claimant closed up the ditch with a sewer pipe and filled up the entire ditch. The sewer pipe was 16 inches in diameter. Claimant also totally filled in and blocked off the railroad culvert and put the 16-inch line into the railroad culvert. Claimant also ran

two four-inch lines inside the railroad culvert to a grading by the railroad system dump where the ditch was filled in.

Claimants called Michael Gill, a registered professional engineer. Gill testified that the storm sewer system would have affected the rate of flow, the pressure of flow and the manner of flow of surface water from the area. Gill said the pipes have a lower friction and would let the water flow faster. Gill testified that the system would have a tendency to allow water to back up because the water could not get out of the manhole fast enough through 12-inch clay tiles. As the water backed up, it would raise the water pressure. He further stated that the sewer system would increase the velocity of the water, and that if the system was full there would be an overflow of surface water which would flow east toward the railroad embankment. The open ditch would have been a more efficient carrier of surface water. Gill said that the reduction of the pipes from two 12-inch laterals to one 16-inch lateral would adversely affect the drainage flow. Gill admitted that the presence of the open ditch at the back of Claimants' property would have significantly alleviated the drainage problem in this area. Gill testified that he made no study in regard to the collapse of the Claimants' basement wall and was not aware that the basement wall was a concrete block structure. Gill stated that he had knowledge of concrete block basement walls caving in from time to time because of an accumulation of surface water, but that he was not a structural engineer and did not work with buildings and would not be comfortable testifying to matters pertaining to structures or buildings. Gill testified that he had no idea and could not render an opinion to a reasonable degree of engineering certainty as to what caused Claimants' basement wall to collapse. Gill

further testified that whoever eliminated the ditch contributed to the water problem.

Robert Benham, an Illinois Department of Transportation employee with 20 years of experience, was called to Patton on the morning in question and when he arrived he found two feet of water on the pavement at the north end of town. Although Benham had lived in Wabash for 47 years, he had never seen water standing or blocking the State highway on the north end of the Village of Patton to the extent noted on the date in question. He was familiar with the open ditch behind the Claimants' property, and knew that it had been filled in. Benham testified that when he observed the area around Claimants' house, there was water standing across the pavement, and water standing over manhole No. 7 which was lower than the pavement. The manhole cover was estimated to be 1½ feet beneath the surface of the highway. The entire Village of Patton was flooded.

Claimants failed to show that anything the State did, or failed to do, in respect to the water drainage system at the location in question caused or contributed to the damage sustained by the Claimants. Although there is evidence that the design of the drainage system installed by the State may have caused the water to be delivered to the area of Claimants' home with greater velocity, there is no showing that this phenomenon caused or contributed to cause a condition which resulted in Claimants' damage. Furthermore, Claimants' action in closing the open ditch that ran laterally across their property to the railroad dam significantly reduced the runoff of water from the area of Claimants' home.

This Court has previously held that the action of a claimant in impeding the natural flow of water across his

property is justification for denying his claim based on flood damage. ***(Wells v. State*** (1953), 21 Ill. Ct. Cl. 384.) Likewise, in *Forbeck* ***v. State*** (1980), 33 Ill. Ct. Cl. 86, this Court considered that the actions of the claimant in clearing land and removing natural erosion retardants could be considered in denying claimant's complaints for flood damage to his property, Claimant's actions in filling or rerouting natural drainage ways were considered in denying claimant's complaint.

Claimants failed to establish that any action on the part of Respondent was the proximate cause of Claimants damage. In *Kimbrough* ***v. Jewel Cos.*** (1981), 92 Ill. App. 3d 813, 416 N.E.2d 328, the court stated:

"Liability cannot be prediczted upon surmise or conjecture as to the cause of the injury; proximate cause can only be established when there is a reasonable certainty that Defendant's acts caused the injury. (Citation omitted.) No liability can exist unless the Defendant's alleged negligence is the legal cause of the Plaintiffs injury, and if the Plaintiff fails to establish the element of proximate cause, she has not sustained her burden of making a *prima facie* case and a directed verdict is proper." **48** Ill. Dec. **297,300.**

In ***Lindenmier v. City of*** *Rockford* (1987), 156 Ill. App. 3d 76, 508 N.E.2d 1201, 108 Ill. Dec. 624, the court stated:

"In order to prevail on a claim of common law negligence, a Claimant must **show** a duty owed by the Defendant to the Plaintiff, a breach of that duty, and an injury proximately caused by the breach. [Citation omitted.] * * * Liability cannot be predicated upon surmise or conjecture as to the cause of the injury; proximate cause can only be established when there is a reasonable certainty that the Defendant's acts caused the injury." (Emphasis added.) **108** Ill. Dec. **624, 630.**

The Illinois Drainage Code (Ill. Rev. Stat. 1987, ch. **42,** par. **1–1** ***et seq.***) provides that a landowner may not willfully or intentionally interfere with any ditches or natural drains crossing his land in such a manner that such ditches or natural drains shall fill or become obstructed with any matter which materially impedes or interferes with the flow of water. See Ill. Rev. Stat. 1987, ch. **42,** par. 2–12.

Finally, the Illinois Supreme Court has stated that where water from one tract of land falls naturally upon the land of another, the owner of the lower land must suffer the water to be discharged upon his land, and has no right to stop or impede the natural flow of the surface water. See *Gough v. Goble* (1954), 2 Ill. 2d 477.

It is therefore ordered that this claim is denied.

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(No. 88-CC-1444—Claimant awarded $2,500.)

EMILY HOWARD, Claimant, *v.* THE STATE OF ILLINOIS, Respondent.

*Order filed October 10, 1989.*

*Opinion filed March 15, 1993*

*Order filed May 4, 1993.*

JOHN F. O'MEARA, for Claimant.

ROLAND W. BURRIS, Attorney General (JANICE SCHAFFRICK, Assistant Attorney General, of counsel), for Respondent.

*TORTS—false imprisonment defined.* False imprisonment consists of an unlawful restraint, against the will of an individual's personal liberty or freedom of locomotion and, while false arrest is one means of committing false imprisonment, even when the arrest itself is valid and legally sustainable, an unreasonable detention following the arrest can be, in and of itself, false imprisonment.

TORTS—*arrest of disabled vehicle's driver did not give rise to false arrest claim.* Where the car which the Claimant was driving overheated on the highway, and a policeman, in responding to the disabled vehicle call, determined that the Claimant might be an out-of-state fugitive based on computerized information provided to him indicating similarities in the two women's names, birthdates, and physical descriptions, the woman's subsequent arrest did not give rise to a claim for false arrest since, based on the information supplied to the policeman, he had reasonable cause to stop and detain the Claimant, as well as a reasonable belief that she was the fugitive in question.

*SAME—false imprisonment claim based on Claimant's unlawful detention—police violated own procedures—State liable.* In the Claimant's tort action seeking damages stemming from her arrest on an out-of-state warrant after her vehicle became disabled, and her subsequent five-hour detention at a police station, the State was liable for unlawfully detaining the Claimant in violation of its own police procedures, where such procedures required that the computerized information supplied to the detaining officer regarding the Claimant's identity be confirmed before probable cause to make the arrest was established, and the arresting officer failed to obtain such confirmation.

## ORDER

FREDERICK, J.

This cause coming to be heard on the motion of Respondent for summary judgment, due notice having been given the parties hereto and the Court being duly advised in the premises, the Court finds:

On June 15, 1987, Officer Kuramitsu of the Illinois State Police was patrolling the northbound lanes of the Edens Expressway (Interstate Highway 94 West). At approximately 7:10 a.m., he observed a disabled vehicle on the shoulder just south of Dempster Street in the Village of Skokie and stopped to offer assistance. The Claimant, who had been driving, informed him that the automobile had overheated.

As a matter of routine police procedure, Officer Kuramitsu ran a check on the vehicle's license plates and on the operator's driver's license. A check operates in the following manner. The patrolman radios key information to an operator in the station house who enters the information into a computer containing information on fugitives and stolen vehicles. If the personal "identifiers" of the detainee substantially match those of a fugitive, the fugitive's identifiers appear on the operator's screen. The operator then sends a "hit tone" via police radio to the officer. The officer then contacts the operator to get specific

information on the fugitive. After comparing the fugitive's identifiers with the detainee's, the officer makes the decision whether or not to arrest the detainee,

Officer Kuramitsu received a hit tone on the driver's license check on Emily Howard. After contacting the operator, he was informed of the following:

1. That there was an outstanding warrant from the superior court in Washington, D.C., for a Denise Howard who was wanted for escaping from prison;

2. That the detainee's car was not registered in her name, but in the name of Blakely Coats;

3. That the detainee had exactly the same hair and eye color as Denise Howard;

4. That detainee's height and weight were almost identical to those of Denise Howard. The difference was only one inch and one pound. Detainee's driver's license listed her as 5'6", 109 lbs., while the fugitive was 5'5", 110 lbs.;

5. That the fugitive had previously used an alias first name starting with the letter "E," as in Emily;

6. That detainee had the same exact day, month and year of birth as the fugitive: June 6, 1950.

Based upon the above, Officer Kuramitsu determined that the detainee might be Denise Howard and, at 7:30 a.m., arrested her to ascertain if she was indeed Denise Howard.

Arriving at the Skokie Police Station at approximately 7:40 a.m., the suspect was searched for weapons and at 8:30 a.m., fingerprints were taken and sent to Joliet to obtain a fingerprint classification. At 10:55 a.m., Officer Kuramitsu was informed by Joliet that the prints

were unclassifiable. At approximately 11:10 a.m., the suspect was refingerprinted and the prints were sent to the FBI. At approximately 12:30 p.m., Officer Kuramitsu was informed that the FBI machine was not accepting the prints. At this time, Officer Kuramitsu requested the prints be sent to Joliet and simultaneously pursued other means of identifying the suspect, namely by calling her employer and by questioning the suspect, her sister and her mother. After such investigation, Officer Kuramitsu determined that the suspect was not Denise Howard and immediately released her at approximately 12:55 p.m., less than 5½ hours after her arrest.

A motion for summary judgment is properly granted "where the pleadings, exhibits, depositions and affidavits of record show that there is no genuine issue of material fact and that the movant is entitled to judgment as a matter of law." *Lopez v. Winchell's Donut House* (1984), 126 Ill. App. 3d 46, 466 N.E.2d 1309.

In the instant matter, both parties agree on the event which occurred. The only disputed issue is the legal consequences of Officer Kuramitsu's actions. Therefore, the question presented to this Court is one of law and is properly decided by this Court in a summary judgment proceeding.

False Imprisonment

False imprisonment consists of an unlawful restraint, against his will, of an individual's personal liberty or freedom of locomotion. *(Dutton v. Roo Mac, Inc.* (1981), 100 Ill. App. 3d 116, 426 N.E.2d 604.) False arrest is one means of committing false imprisonment. *(Shemaitis v. Froemke* (1955), 6 Ill. App. 2d 323, 127 N.E.2d 648; *Dutton v. Roo Mac, Inc., supra.)* However, even when the arrest itself is perfectly valid and legally sustainable, an unreasonable detention following the arrest can be, in

and of itself, "false imprisonment." ***(Luker v. Nelson*** (1972), 341 F. Supp. 111.)Claimant's complaint alleges false imprisonment based on both false arrest and unlawful detention following an arrest. In the present matter, there is no issue of fact and movant is entitled to judgment as a matter of law on both allegations.

False Arrest

In ***Dutton,*** the court stated that "an arrest authorized by statute cannot be grounds for civil liability." Since Officer Kuramitsu arrested the Claimant pursuant to Ill. Rev. Stat. 1987, ch. **38,** par. 107—2(1)(b), the arrest cannot be grounds for false imprisonment.

Ill. Rev. Stat. 1987, ch. **38,** par. 107—2(1) states that,

**"A peace officer may arrest a person when * * * (b) He has reasonable grounds to believe that a warrant for the person's arrest has been issued in this state** or **in another jurisdiction."**

Via police radio, Officer Kuramitsu **was** informed that there was an outstanding warrant for Denise Howard and reasonably believed that the Claimant could have been the fugitive based on the following information:

1) The car Claimant was driving was not registered in her name. Rather it was registered to one Blakely Coats;

2) Both Denise Howard and Claimant had black hair and brown eyes.

3) Denise Howard was five feet, five inches high, while Claimant's driver's license listed her **as** five feet, six inches high;

4) Denise Howard weighed 110 lbs., while Claimant's driver's license listed her **as** 109 lbs.;

5) Denise Howard had previously used an **alias** first name beginning with the letter "E," **as** in Emily;

6) Most importantly, both Denise Howard and Claimant have exactly the same birthdate: June 6,1950.

Clearly, the above-stated similarities gave Officer Kuramitsu the statutorily required "reasonable cause" to arrest Claimant.

In addition to the above-mentioned statutory justification for the arrest, Claimant's cause of action must fail by the very definition of false arrest as determined by case law.

In *U.S. ex rel Kirby v. Sturges* (1975), 510 F. 2d 397, police officers on the lookout for a con man mistakenly arrested the plaintiff based on a department bulletin bearing a description and picture of the wanted person. The circuit court ruled that there was no false arrest because the officers' mistake was reasonable. The court, resting its decision on a Supreme Court case, *Hill v. California* (1971), 401 U.S. 797, 91 S. Ct. 1106, stated that "The Supreme Court has held an arrest or stop based upon a reasonable mistake as to identity is lawful." *Kirby*, at 401.

Since Officer Kuramitsu made a reasonable mistake as to Claimant's identity, *Kirby* and *Hill* dictate that the arrest was lawful, thereby defeating a false arrest claim as a matter of law.

We find that Respondent is entitled to judgment as a matter of law on the false arrest claim because:

1. Officer Kuramitsu arrested Claimant pursuant to statute and therefore the arrest cannot give rise to civil liability, *Dutton v. Roo Mac, Inc., supra,* and;

2. The arrest resulted from a reasonable mistake of identity which *Kirby* and *Hill* have deemed lawful, thereby defeating a false arrest claim as a matter of law.

Unlawful Detention

In addition to false arrest, unlawful detention following an arrest can itself give rise to a false imprisonment claim. ***(Hughes v. New York Central*** System (1959), 20 Ill. App. 2d 224, 155 N.E.2d 809.) In paragraph 7 of her complaint, Claimant asserts that she "was detained despite information available to respondent that she was not the person named in the warrant." This attempt at analyzing Officer Kuramitsu's actions with the benefit of hindsight is incorrect. Rather, the lawfulness of his actions must be viewed in light of police procedure and the facts available to the officer at the time of the alleged incident,

Officer Kuramitsu used a statutorily approved method of identifying the Claimant. Officer Kuramitsu attempted to identify Claimant by her fingerprints pursuant to Ill. Rev. Stat. 1987, ch. **38,** par. 206-4, entitled "Systems of Identification," which states that

"The Department may use the following systems of identification: The Bertillion System, *the fingerprint* **system,** and any system of measurement or identification that may be adopted by law * * *." (Emphasis added.)

For an unknown reason, the prints were returned "unclassifiable," so the prints were retaken. Clearly, to repeat an approved procedure one time cannot make Respondent liable for false imprisonment. If it did, police officers would be forced to release potential fugitives and felons every time a first set of prints was deemed "unclassifiable." After the second set of prints was returned "unclassifiable," Officer Kuramitsu immediately pursued secondary, less exact methods of identification which led to Claimant's release less than six hours after her arrest.

Claimant complains that Respondent's above-stated actions caused her to be detained for the unreasonable length of six hours. However, courts have recognized that

proper police procedure can be time consuming, yet not constitute unreasonable detention.

In *Doe v. Thomas* (1985), **604 F.** Supp. **1508, as** in our case, plaintiff was arrested pursuant to a valid warrant. ***Doe*** was imprisoned at two police stations for "a total of approximately nine hours for the proper purpose of administrative processing." ***(Doe,*** at **1515.)** The court granted defendant's motion for summary judgment, denying the claims ***of*** false arrest and false imprisonment. Although ***Doe*** was detained for "booking," detention to identify Claimant is likewise a "proper purpose of administrative processing."

In the instant matter, administrative processing took three hours less than in ***Doe.*** If nine hours for processing was reasonable as a matter of law in ***Doe,*** certainly Claimant's six hours of detention awaiting identification results cannot support a false imprisonment claim. Based on ***Doe,*** we find that there was no unlawful detention **as** a matter of law and grant Respondent's motion for summary judgment.

In light of the above-cited case law, we further find that the undisputed actions of Officer Kuramitsu clearly do not constitute false imprisonment **as** a matter of law.

It is therefore ordered, adjudged and decreed that the Respondent's motion to dismiss is granted, and this claim is dismissed.

OPINION

**FREDERICK,** J.

Claimant, Emily Howard, filed her case in the Court of Claims on November **19, 1987.** She alleged that she was falsely arrested and detained **by** an Illinois State Trooper on June **15, 1987.** The cause was tried before

Commissioner Weinberg. The Claimant filed her brief but the State failed to file a brief.

## The Facts

At about 6:50 a.m. on June 15, 1987, the Claimant, Emily Howard, was driving to her ernployment at Avon Products on Golf Road in Morton Grove, Illinois, as a temporary worker for Just Jobs. She performed work at Avon Products as an assembly line worker.

Emily Howard was born in Chicago, Illinois, on June 6, 1950. Claimant testified she had never been arrested or convicted of any crime except for traffic violations. She testified she had never been outside of the Chicago area except to go to Cincinnati to visit her father. On the date in question, Claimant was dressed in a blouse and jeans and she was carrying her purse. She was driving a car registered to Blakely Coats who was a friend of Claimant's sister, Deborah Johnson. Deborah Johnson worked at Avon, too, and she was going to work with Claimant that morning. Their hours of work were from 7:00 a.m. to 3:30 p.m. They left their home at about 6:00 a.m. and proceeded north on Edens Expressway. At some point the car began running hot and at about 6:50 a.m., Claimant pulled to the side of the expressway to put water in the radiator and to allow the engine to cool. The car was pulled over just south of Niles Center Road.

At about 7:00 a.m., Trooper Bryant Kuramitsu of the Illinois State Police observed the car driven by Emily Howard. Trooper Kuramitsu pulled his State Police car behind the Howard car on the shoulder. He had been a trooper for about a year. After first ascertaining what the car problem was, Trooper Kuramitsu initially went to the trunk of his State Police car to get water for the radiator.

Trooper Kuramitsu then asked for Emily Howard's driver's license. Upon receipt of the license, Trooper Kuramitsu ran a status check on the driver's license and auto license of Claimant.

Trooper Kuramitsu spoke on the police radio to Clarence B. McCormick, a telecommunicator employed by the State Police and stationed at District III headquarters at Irving Park Road and Harlem Avenue. Telecommunicator McCormick operated both the radio and a computer terminal at district headquarters. As a matter of procedure, McCormick entered the driver's name, sex, date of birth and license number into the computer, and the computer accessed banks of stored data. It accessed TIPS (Traffic Information Planning System) maintained by the State Police in Springfield, Illinois, which showed whether the person had received a citation or warning from either the State Police or Department of Conservation in the past year, and it also accessed LEADS (Law Enforcement Agency Data System) which was maintained by the State of Illinois in Springfield, Illinois, and contained information regarding stolen vehicles and wanted persons in the State of Illinois. The computer also accessed NCIC (National Crime Information Center) information compiled from the 50 States plus foreign countries regarding the same subjects through NLETS (National Law Enforcement Terminal System). The records of the Illinois Secretary of State were also accessed regarding the driver's license and automobile registration information requested by Mr. McCormick.

When telecommunicator McCormick entered the information from Trooper Kuramitsu as to Claimant, the computer showed that the automobile had valid Illinois license plates, that Emily Howard had a valid driver's license which was last issued on June 4, 1986, and that

there were no positive responses from TIPS or LEADS. However, from the NCIC there was a response that a Denise Howard was wanted for prison breach in Washington, D.C., with the contact being Charles V. Hargrave, Jr., D.C. Department of Corrections. The warrant had been issued from the D.C. Superior Court on December 3, 1986. The computer information showed the wanted person, Denise Howard, had been born in New Jersey and was born on either June 6, 1950, or June 6, 1958. Two dates of birth were shown. The additional information provided on Denise Howard was that she was a black female with brown eyes and black hair. She was 5 feet, 5 inches tall and weighed 110 pounds. She had used several aliases, including Evon Hicks. The computer sheet ended with these words: "IMMED Co. FIRM WARRANT and extradition with ORI."

Claimant, Emily Howard was born on June 6, 1950. She is a black female. She is 5 feet, 6 inches tall, weighed 109 pounds, and had black hair and brown eyes. To Officer Kuramitsu, the computer information constituted a reasonably close match of identifiers between Emily Howard and the wanted Denise Howard.

The Illinois State Police have a policy and procedure that was in existence on June 15, 1987, for circumstances such as those in the present case. Respondent presented the policy and procedure into evidence as Exhibit 4. The relevant portion of those policies and procedures is as follows:

"HIT **PROCEDURE (OPS-11)**

PURPOSE

The purpose of this directive is to establish uniform procedures governing the exchange of Computerized Hot File (CHF) data by radio between communications personnel and officers utilizing the Department of State Police Communications System. The objectives of this procedure are to enhance officer safety and to protect law enforcement agencies and their employees

from civil liability as related to the action taken based upon computerized hot file information.

*DEFINITIONS*

1. ***Hit:*** *A* positive response message to an inquiry producing a record from the Computerized Hot Files of ***LEADS*** and/or NCIC which is identical to some or all of the identifiers submitted in the inquiry.

   a. *A* hit is investigative information only The hit provides information for decision making by police officers, investigators, judges, etc. The information furnished by the hit must be evaluated along with other facts known to the officer. *A* hit is one fact which may be added to other facts obtained by the officer in establishing sufficient legal grounds for arrest. *A* hit is an informational tool.

   b. ***A LEADS and/or NCIC hit alone may be used by the officer as reasonable grounds*** for ***detention*** of ***persons and/or property at the scene. However, only after documented confirmation with the originating authority is probable cause provided to effect an actual arrest or recovery.*** (Emphasis added.)

2. ***Valid Hit: To the LEADS operator—A*** hit that contains identifiers that are an exact match or a reasonably close match to the identifiers given in the inquiry. *A* valid hit will be disseminated to the inquiring **source.**

***To the officer—A*** hit that contains identifiers that are an exact match or a reasonably close match to the visible and/or numeric identifiers of the person or property inquired upon. *A* valid hit establishes that there is reasonable grounds to initiate recovery or detention."

Based on the computer information of a reasonably-close match, telecommunicator McCormick broadcast a hit tone to Trooper Kuramitsu. Lieutenant Richard Lambert of the Illinois State Police testified, "reasonably close" meant that the characteristics are sufficiently similar to warrant a little more checking.

Both telecommunicator McCormick and Trooper Kuramitsu testified to inaccuracies they had experienced concerning the computer information generated by the aforesaid systems. McCormick testified that he received an average of 15 to 20 positive responses per week from the computer data banks and that he had eight on the day prior to his testimony. Mr. McCormick could not testify to a percentage as to how many of the hit reports were accurate, but of the eight the previous day, not one had been

accurate. Trooper Kuramitsu also testified that a substantial number of hit tones had turned out to be invalid, Other than the computer-generated information, there was no testimony presented that there was anything suspicious or criminal concerning the conduct or appearance of Claimant, Emily Howard. Claimant's driver's license was valid and there were no warrants under the name, Emily Howard. The last name, Howard, is a common last name.

Claimant testified that after the trooper had been on the radio, the trooper exited the police car and came over to where Claimant was and told her that he had to take her in. Trooper Kuramitsu testified that he asked Emily if she was born in New Jersey or had ever been to Washington, D.C. Claimant testified she showed the trooper her check-cashing card, her State of Illinois identification card, a Mutual of Omaha medical insurance card, and a driver safety citation from the Illinois Secretary of State issued on June 4,1986.

Deborah Johnson testified that she told the trooper that they were on their way to work.

Telecommunicator McCormick testified that Trooper Kuramitsu never asked him to confirm the "hit" with the originating authority. McCormick testified that he would only confirm with the originating authority if requested to do so by the trooper in the field and that he would not confirm if the officer did not ask him to do so. When McCormick "confirmed a hit," he would send a confirmation request by computer to the originating authority. If some clarification was needed, there was a telephone in the "operations" or "headquarters" section next to where McCormick worked for such purposes. Lieutenant Lambert corroborated that only the telecommunicator initiates the confirmation process.

Trooper Kuramitsu testified that he took Emily Howard into custody because he had no further information to go on, and he felt it was his duty to investigate further in that Emily Howard could be the wanted person.

Lieutenant Richard Lambert was called as a witness by the State. He testified that the policies and procedures in Claimant's Exhibit 4 only applied to telecommunicators and not field officers. However, he identified Respondent's Exhibit 1 as the relevant Illinois State Police operational policy regarding computerized hot files which would apply to field officers. That exhibit states in part:

"g. ***CONFIRM*** the validity of the computerized hot file (CHF) record by contacting the originating agency via directed message.

*NOTE* If there is no response from the originating authority within a reasonable length of time (10 minutes), refer the matter to the desk operations officer."

Trooper Kuramitsu did take Claimant, Emily Howard, into custody and transported her to the Skokie, Illinois, police station. He did not seek confirmation of the warrant and did not refer the matter to the desk operations officer. While in custody at the Skokie police station, neither Claimant or her purse was searched. However, Claimant was handcuffed to a bench. Trooper Kuramitsu testified that at the police station he called Avon to check on Claimant's employment and was referred to a temporary agency. The Trooper called Just Jobs and Claimant's employment was confirmed. Trooper Kuramitsu never tried to contact Mr. Hargrave in Washington, D.C., to confirm the warrant and obtain better identifiers even though he was given the phone number of Mr. Hargrave. Trooper Kuramitsu testified that Claimant was taken to the Skokie police station for the purpose of identifying her by fingerprints. Emily Howard testified that she was printed three or four times. Trooper Kuramitsu testified that the first set of prints was returned as

unclassifiable and that Claimant was reprinted at 10:55 a.m. The second set of prints was sent to the FBI, but at 12:30 p.m., he was advised that the FBI facsimile machine was not working. The prints were then sent to Joliet, with the negative match results being returned at 2:00 p.m. Claimant was released at 12:55 p.m. before the fingerprints were reported as a negative match.

Trooper Kuramitsu testified that he decided to release Claimant because of her attitude and her family's attitude which convinced him she was not the wanted person. Additionally, shortly before Emily's release, a friend of Claimant's mother, Steve Kula, arrived at the Skokie police station to give additional information and advise the police that the wrong person must have been arrested.

As to damages, Claimant testified that during the week before the incident she had strained her right shoulder while lifting a chair. She claimed that when she was handcuffed, her right shoulder hurt her. The handcuffs also hurt her wrists and she told Trooper Kuramitsu about this in the police car. Trooper Kuramitsu did loosen the cuffs at the station. Except for being fingerprinted, she had to remain handcuffed to a bench. The whole process caused her to feel fear, according to Claimant.

Claimant's employment at Avon was as a temporary from Just Jobs. Avon was planning on hiring some of the agency workers on a permanent basis and Claimant feared that Avon would not hire her because of this arrest. However, Avon did hire her on a permanent basis. Claimant lost approximately $100 for missing work on June 15, 1987. As a result of the arrest, Claimant claims some of her co-workers at Avon called her jailbird and criminal.

## The Law

Ill. Rev. Stat., ch. **38,** par. 107—14 states:

**"A** peace officer, after having identified himself as a peace officer, may stop any person in a public place for a reasonable period of time when the officer reasonably infers from the circumstances that the person is committing, is about to commit, or **has** committed an offense **as** defined in Section 105—15 of this Code, and may demand the name and address of the person and an explanation of his actions. Such detention and temporary questioning will be conducted in the vicinity of where the person was stopped."

Ill. Rev. Stat, ch. **38,** par. 107—2 states, in pertinent part:

**"A** peace officer may arrest a person when:

(a) He has a warrant commanding that such person be arrested; or

(b) He has reasonable grounds to believe that a warrant for the person's arrest has been issued in this State or in another jurisdiction; or

(c) He has reasonable grounds to believe that the person is committing or has committed an offense.

**(3) A** peace officer who executes a warrant of arrest in good faith beyond the geographical limitation of the warrant shall not be liable for false arrest."

The facts in this case are undisputed that Trooper Kuramitsu originally stopped to help Claimant in his caretaking-of-the-public function as a police officer. He had the right in that capacity to obtain identification from Claimant and check for a valid driver's license as she had been driving and was about to drive on a public highway. In that regard, it was permissible to check on wants and warrants for the motorist for the protection of the officer. It is also undisputed that upon receipt of the hit tone from the telecommunicator, at about 7:00 a.m., the trooper detained Claimant at the scene, then arrested Claimant and transported her to the Skokie police station where she was held in handcuffs until about 12:30 p.m., when she was released. It is uncontradicted that Claimant, Emily Howard, was not the wanted person, Denise Howard.

Neither Trooper Kuramitsu nor telecommunicator McCormick followed their own policies and procedures and contacted the originating agency for confirmation on the warrant and additional identifiers. The computer-generated information obtained by the telecommunicator also requested the arresting agency to immediately confirm the warrant and extradition with the originator.

The only disputed issue is the legal consequences of Trooper Kuramitsu's actions. False imprisonment consists of an unlawful restraint, against the will of an individual's personal liberty or freedom of locomotion. *(Dutton v. Roo Mac, Inc.* (1981), 100 Ill. App. 3d 116, 426 N.E.2d 604.) False arrest is one means of committing false imprisonment. ***(Shemaitis v. Froemke*** (1955), 6 Ill. App. 2d **323,** 127 N.E.2d 648; ***Dutton v. Roo Mac, Inc., supra.)*** However, even when the arrest itself is perfectly valid and legally sustainable, an unreasonable detention following the arrest can be, in and of itself, "false imprisonment." ***(Luke v. Nelson*** (1972), 341 F. Supp. **111.)** Claimant's complaint alleges false imprisonment based on both false arrest and unlawful detention following an arrest.

Claimant has the burden of proving by a preponderance of the evidence that the officer imprisoned her, that the officer did not have probable cause to detain her at the scene, or that he did not have probable cause to arrest her and take her to the Skokie police station, and that she suffered damages therefrom. (***Ivancic v. State*** (1961), 24 Ill. Ct. Cl. 81.) In ***Dutton, supra,*** the court stated that "an arrest authorized by statute cannot be grounds for civil liability." Since Trooper Kuramitsu arrested the Claimant pursuant to Ill. Rev. Stat. 1987, **ch. *38,*** par. 107—2(b), the arrest cannot be grounds for false imprisonment.

Pursuant to the transmission by the telecommunicator by police radio, Trooper Kuramitsu was informed that there was an outstanding warrant from Washington, D.C., for a Denise Howard and he reasonably believed, based on the information before him, that the Claimant could have been the fugitive based on the following information:

(1) The car Claimant was driving was not registered in her name;

(2) Both Denise Howard and Claimant had black hair and brown eyes;

(3) Denise Howard was five feet, five inches tall, while Claimant's driver's license listed her as five feet, six inches tall;

(4) Denise Howard weighed 110 lbs., while Claimant's driver's license listed her as 109 lbs.;

(5) Denise Howard had previously used an alias first name beginning with the letter "E," albeit Evon and not Emily;

(6) Denise Howard and Claimant have the same birthdate — June 6, 1950, although a second birthdate of June 6, 1958, appeared on the teletype.

Clearly, the above-stated similarities gave Trooper Kuramitsu the statutorily required "reasonable cause" to stop and detain Claimant at the scene.

In addition to the above-mentioned statutory justification for the stop, Claimant's cause of action must fail by the very definition of false arrest as determined by case law.

In *United States. ex rel. Kirby v. Sturges* (1975), 510 F. 2d 397, police officers on the lookout for a con man mistakenly arrested the plaintiff based on a department bulletin bearing a description and picture of the wanted

person. The circuit court ruled that there was no false arrest because the officers' mistake was reasonable. The court, resting its decision on a Supreme Court case, *Hill v. California* (1971), 401 U.S. 797, 91 S. Ct. 1106, stated that "The Supreme Court has held an arrest or stop based upon a reasonable mistake as to identity is lawful."

Since Trooper Kuramitsu had a reasonable belief that Claimant was the wanted person, *Kirby* and *Hill* dictate that the arrest was lawful, thereby defeating a false arrest claim.

In addition to false arrest, unlawful detention following an arrest can itself give rise to a false imprisonment claim. *(Hughes v. New York Central System* (1959), 20 Ill. App. 2d 224, 155 N.E.2d 809.) The unlawfulness of Trooper Kuramitsu and telecommunicator McCormick's actions must be viewed in light of police procedure and the facts available to the officer and telecommunicator at the time of the alleged incident. It is a finding of this Court that both the Trooper and the telecommunicator failed to follow their own policies and procedures. The State Police have a written "hit procedure." The objectives of the hit procedure are to enhance officer safety and *to protect law enforcement agencies and their employees from* ***civil*** *liability* as related to the action taken based upon computerized hot file information. (Emphasis added.) There is a tacit admission that much of the information in the computer system is stale or just plain wrong. There was considerable testimony before the Court concerning invalid information in the system.

This case presents a reasonably close match situation rather than an exact match. The warrant is not from Illinois, but from Washington, D.C. The policy and procedure states that an NCIC hit alone may be used by the

officer as reasonable grounds for detention ***at the scene.*** (Emphasis added.) An actual arrest can only be made after documented confirmation with the originating agency to establish probable cause. Trooper Kuramitsu and telecommunicator McCormick had grounds to initiate detention. They failed to establish probable cause for an arrest wherein Claimant could be taken from the scene. Both the district directive and the policy and procedures manual require confirmation of the warrant to establish probable cause. It was an unlawful detention to arrest Claimant, take her from the scene, and hold her at the Skokie police station for approximately five hours. To this day, this Court has never been provided proof of the validity of the warrant. It is difficult to fathom that to this date the validity of the warrant has never been proven.

If Trooper Kuramitsu had confirmed the warrant and obtained better identifiers such as a social security number, information on scars or other more precise indications of identification, he could have detained the Claimant at a police station. Once at the police station, Trooper Kuramitsu used a statutorily approved method of identifying the Claimant. Trooper Kuramitsu attempted to identify Claimant by her fingerprints, pursuant to Ill. Rev. Stat. **1987,** ch. **38,** par. 206—4, entitled "Systems of Identification" which states that

"The Department may use the following systems **of** identification: The Bertillion System, the fingerprint system, and any system of measurement or identification that may be adopted by law * * *."

Trooper Kuramitsu also pursued secondary, less exact methods of identification which led to Claimant's release about 5½ hours after her arrest.

Claimant complains that Respondent's above-stated actions caused her to be detained for an unreasonable length of time. However, courts have recognized that

proper police procedure can be time-consuming, yet not constitute unreasonable detention.

In ***Doe*** *v. Thomas* (1985), 604 F. Supp. 1508, which is distinguishable from the present case, plaintiff was arrested pursuant to a valid warrant. *Doe* was imprisoned at two police stations for "a total of approximately nine hours for the proper purpose of administrative processing." ***(Doe,*** at 1515.) The court granted defendant's motion for summary judgment denying the claims of false arrest and false imprisonment. Although ***Doe*** was detained for "booking," detention to identify Claimant is likewise a "proper purpose of administrative processing."

By violating their own procedures which admit a hit is not probable cause, Claimant was unlawfully detained. When absolutely no attempt was made to confirm the warrant and obtain better identifiers, it was unlawful for Claimant to be removed from the scene. As previously stated, Claimant also has the burden of proving her damages. Even if Trooper Kuramitsu had not taken Claimant from the scene, he could have lawfully detained Claimant at the scene for a reasonable time to confirm the warrant. If the warrant was confirmed and better identifiers obtained, he could have done exactly what he did do in this case because he would have had probable cause to arrest and detain at a police station while he made reasonable efforts to check on the identification. The 5%-hour total proceeding was not unreasonable if there had been probable cause.

Claimant was not physically injured as a result of her detention. There was no medical evidence of any injury. Claimant was hired permanently at Avon. Claimant did lose $100 in wages. She was upset and embarrassed. She

was handcuffed to a bench in a police station for about five hours.

It is therefore our order that Claimant be awarded the sum of $2,500 as and for her damages in this cause.

## ORDER

FREDERICK, J.

This cause coming on for hearing on Claimant's motion to tax bill of costs, and the Court being fully advised in the premises, wherefore, the Court finds:

1. That Claimant seeks to have two reports of proceedings taxed as costs and ordered paid by Respondent.

2. That Rule 13 of the Court of Claims Regulations (74 Ill. Adm. Code 790.130) provides:

"All costs and expenses of taking evidence required by the Claimant shall be borne by the Claimant; and the costs and expenses of taking evidence required by the Respondent shall be borne by the Respondent."

3. That there is no authority to tax the transcripts as costs of Respondent.

Therefore, the motion to tax bill of costs is denied.

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(No. 88-CC-380A Claimants awarded $1,995.)

GREGORY J. MCHUGH and MYRA GOLDEN, Claimants, *v.* THE STATE OF ILLINOIS, Respondent.

*Opinion filed* ***November*** 6, *1992.*

APPLETON & APPLETON, for Claimants.

ROLAND W. BURRIS, Attorney General (THOMAS S. GRAY, Assistant Attorney General, of counsel), for Respondent.

ATTORNEY FEES—*contested case initiated by State agency—litigation expenses.* Pursuant to Illinois statute, in any contested case initiated by an agency that does not proceed to court for judicial review, any allegation made by the agency without reasonable cause and found to be untrue shall subject the agency to the payment of the reasonable expenses incurred in defending against the allegation by the party against whom the case was initiated, but a Claimant may not recover litigation expenses when the parties have executed a settlement agreement which requires the Claimant to take corrective action or pay a monetary sum.

STATUTES—*statutes permitting recovery of attorney fees must be strictly construed. As* a matter of statutory construction, it is axiomatic that statutes which permit a recovery of attorney fees are in derogation of the common law and must be strictly construed by the court.

ATTORNEY *FEES—report of child abuse filed by DCFS—expungement proceeding—Claimant entitled to attorney fees.* In the Claimant's contested proceeding to expunge an indicated report of child abuse filed by the Department of Children and Family Services, where the Claimant prevailed based on proof that the agency, without reasonable cause, made an allegation that she intentionally burned her son with a cigarette lighter, the Claimant was entitled to an award of attorney fees for prosecution of her expungement proceeding, and for her appeal to the Court of Claims of the agency's denial of her request for litigation expenses.

## OPINION

FREDERICK, J.

This cause arises from a request for attorney fees pursuant to Ill. Rev. Stat., ch. **127,** par. **1014.1.** Gregory J. McHugh, attorney at law, was employed by Myra Golden as her legal counsel in her appeal for expungement of an indicated report of child abuse filed by the Illinois Department of Children and Family Services. Claimants request the amount of **$1,345** in attorney fees for the prosecution of the expungement hearing and $650 for this appeal to the Court of Claims of the Department's denial of attorney fees. By stipulation of all parties, the hearing in this case was waived in lieu of briefs submitted by the parties hereto and all evidence offered is in the form of witness depositions and parties' exhibits.

The Respondent, State of Illinois, Department of

Children and Family Services, hereafter referred to as "DCFS," admits the substantial facts as described in the Claimants' brief.

The Facts

On April 19, 1986, an allegation of child abuse against Myra Golden was reported to DCFS. The following week, DCFS conducted an investigation into the report that Ms. Golden's child had been burned. The investigation included interviews with the child himself, Myra Golden, Jim Land, the homemaker, and Jennifer Jackson, a paralegal with the State's Attorney's office. Conflicting statements were given by those interviewed. Ms. Golden denied the allegation. In addition to the interviews, the child was examined by a physician on April 22, 1986, three days after the abuse was alleged to have occurred. The physician concluded that the age of the scar on the child's arm made it too difficult to determine its cause. Upon completion of its investigation, DCFS filed an indicated report of abuse against Myra Golden.

In seeking expungement of the indicated report, Claimant, Myra Golden, sought legal counsel from the Claimant, Gregory McHugh. Attorney McHugh represented Myra Golden in her expungement proceeding to DCFS to have the indicated report expunged from her record as inaccurate following the guidelines for the appeal for expungement set forth in Ill. Rev. Stat. (1985), ch. **23,** par. 2051 ***et seq.***

On November **23,** 1987, a hearing officer, Ed Schoenbaum, was assigned to review the case. On December 7, 1987, DCFS conducted a hearing to consider the request for expungement. Mr. Schoenbaum determined that

credible evidence to support the indicated finding against Myra Golden was not documented. The facts found at the hearing were that the Department received a call at the State central register wherein a reporting person told an investigator that they had seen the minor child involved with a burn mark on his left forearm. The reporter stated to the investigator that the child said his mom had burned him with a cigarette lighter. The investigator then met with the minor child and Claimant, Myra Golden, the mother. The investigator did notice a circular mark on the child's left forearm which did resemble a bum mark. The child initially told the investigator he did not know how he got the mark but later said he was burned by a lighter although he would not say who did it. He then said he was burned by bumping into a cigarette but could not or would not say when it happened or who was smoking.

Myra Golden denied burning the child. On the next day, the investigator interviewed the child away from home. The child told the investigator that his "Mom had burnt him." The child said it happened Saturday afternoon and that his mom used a lighter. The doctor examining the mark stated that "due to the age of the mark it was difficult to tell if the mark was from a bum or from something else." The location of the mark was not in a location usually associated with a fall or a scrape. Outside of the presence of the doctor and his mother, the investigator stated the child again told him that his mother had burned him.

The investigator indicated the report of abuse because the child was very consistent and specific. There had also been a prior indicated report dealing with a March 1984 report of cuts, bruises and welts.

At the hearing, the child testified *in camera* that he didn't remember a burn on his left forearm and did not remember telling anyone anything about the burn being caused by his mother.

The hearing officer found the child's story was not consistent and that the child's mother denied causing the burn. The Abused and Neglected Child Reporting Act requires the Department to document the existence of credible evidence to indicate a report of suspected child abuse or neglect. (Ill. Rev. Stat. (1985), ch. 23, par. 2053.) Pursuant to DCFS's administrative rules, a cigarette bum must be verified by a physician's diagnosis unless the perpetrator admits causing the burn. The hearing officer believed the administrative rule required a physician's diagnosis of burn where the mother denied that she caused the burn. Since the doctor could not specifically diagnose a burn and Claimant denied the abuse, the hearing officer recommended that the indicated report of abuse be expunged. The hearing officer wrote

"The hearing officer is not convinced that the Department has carried the burden of proof of demonstrating that credible evidence exists that (the child) was burned. Therefore, the hearing officer recommends that the report be expunged from the State Central Register."

Subsequent to the finding, expungement was granted.

The Claimants requested that the Respondent agency pay Myra Golden's attorney fees pursuant to Ill. Rev. Stat., ch. 127, par. 1014.1. The request was denied by the agency.

## The Law

The Claimant cites Ill. Rev. Stat., ch. 127, par. 1014.1 as support for his request. Section 1014.1 states:

"(a) In any contested case initiated by any agency that does not proceed to court for judicial review and on any issue where a court does not have jurisdiction to make an award of litigation expenses under Section **2—611** of the

Civil Practice Law, any allegation made by the agency without reasonable cause and found to be untrue shall subject the agency making the allegation to the payment of the reasonable expenses, including attorney's fees, actually incurred in defending against that allegation by the party against whom the case was initiated. A claimant may not recover litigation expenses when the parties have executed a settlement agreement that, while not stipulating liability or violation, requires the claimant to take corrective action or pay a monetary sum.

(b) The claimant shall make a demand for litigation expenses to the agency. If the claimant is dissatisfied because of the agency's failure to make any award or because of the insufficiency of the agency's award, the claimant may petition the Court of Claims for the amount deemed owed. If allowed any recovely by the Court of Claims, the claimant shall **also** be entitled to reasonable attorney's fees and the reasonable expenses incurred in making a claim for the expenses incurred in the administrative action. The Court of Claims may reduce the amount of the litigation expenses to be awarded under this Section, or deny an award, to the extent that the claimant engaged in conduct during the course of the proceeding that unduly and unreasonably protracted the final resolution of the matter in controversy."

The statute at issue and under which Claimant seeks relief has the following requirements:

**(1)** There must be a contested case initiated by an agency that does not proceed to court for judicial review; and

(2) There must be an allegation made by the agency without reasonable cause;

***(3)*** That allegation must be found to be untrue;

**(4)** There must be no stipulation by the claimant which requires the claimant to take corrective action or pay a monetary sum.

**As** a matter of statutory construction, it is axiomatic that statutes which permit a recovery of attorney fees are in derogation of the common law and must be strictly construed by the court. ***(Department*** of ***Revenue v. Appellate Court*** (1977), 67 Ill. 2d 392.) When a statute can reasonably be interpreted so **as** to give effect to **all** of its provisions, a court will not adopt a strained reading which renders one part superfluous **as** it is presumed that

the legislature intended to give meaning to all the provisions of a statute.

In the present case, the Claimant chose to rely on the findings of the administrative hearing officer and Respondent chose not to present any new evidence in the Court of Claims. It is clear from the record presented to this Court that the Claimant has proven, by a preponderance of the evidence, all four requirements of the statute. It is clear that there was a contested case that was initiated by DCFS which did not proceed to court for judicial review. The expungement appeal process may not have been exactly the proceeding contemplated by the legislature, but such **a** proceeding does fall within the statutory language. The Claimant has also proven that the allegation of indicated abuse was made by the agency without reasonable cause. The agency rule requires a doctor's verification of a burn where the alleged perpetrator does not admit the abuse. In the instant case, the doctor was unable to diagnose a burn because of the passage of time, even though the mark on the child was in an unusual place and looked somewhat like a bum mark. The allegation of indicated abuse was therefore made without reasonable cause under the Department's own rules. The investigation itself of the report of child abuse was made with reasonable cause. It was the indicated finding that was not reasonable due to the Department's rule violation. However, ch. 127, par. 1014.1 does not permit recovery simply because the agency failed to follow its own rule. ***Ekco Inc. v. Edgar*** (1985), 135 Ill. App. 3d 557.

There is nothing in the record that indicates Claimant entered into a stipulation to take corrective action or pay a monetary sum. In fact, the record is clear that Claimant denied, contested and challenged the allegations of abuse throughout.

This case turns on whether Claimant has proven to this Court that the allegations were found to be untrue. Claimant and Respondent failed to present any new proof in this Court and both rely on the findings of the administrative hearing officer who recommended expungement of the indicated report. The hearing officer made the following finding which is relevant to this inquiry:

"3. I find as Myra testified under oath that she never intentionally burned her **son."**

While the finding may have been inartfully drawn, the clear import of the finding is that the hearing officer found the allegation of indicated abuse to be untrue. This interpretation finds additional support in the hearing officer's recommendation wherein he states that the hearing officer is not convinced that the Department has carried the burden of proof of demonstrating that credible evidence exists that the minor child was burned. Having met the burden of proof, the Claimant is entitled to an award of attorney fees. The attorney fees sought appear to be reasonable.

Based on the foregoing, it is therefore ordered that Claimant is awarded **$1,345** for attorney fees for prosecuting her expungement proceeding and $650 for attorney fees for Claimant's appeal of the attorney fees denial to and through the Court of Claims, for a total award of $1,995 for attorney fees.

(No. 89-CC-0047—Claim dismissed.)

SOCORRO BACA, Claimant, *v.* THE STATE OF **ILLINOIS**, Respondent.

*Order filed July* **13,1992**

SOCORRO BACA, *pro se*, for Claimant.

ROLAND W. BURRIS, Attorney General (STEVEN SCHMALL, Assistant Attorney General, of counsel), for Respondent.

JURISDICTION—***jurisdiction to review final administrative decisions is vested in circuit court.*** Section **3—104** of the Code of Civil Procedure provides that jurisdiction to review final administrative decisions is vested in the circuit court.

SAME—***employment—claim seeking to recover amount of unemployment insurance warrant issued by State dismissed for lack ofjurisdiction.*** In a claim seeking to recover the amount of an unemployment insurance warrant issued by the Illinois Department of Employment Security, where the claims adjudicator for the Department's Division of Benefit Payment Control denied reissuance of the warrant after an administrative hearing, the Court of Claims was without jurisdiction to review the decision and the claim was dismissed notwithstanding an agreement by the parties that an aggrieved individual should proceed in the Court of Claims, since jurisdiction over the matter was vested in the circuit court and could not be altered by the parties' agreement.

ORDER

MONTANA, C.J.

This cause comes on to be heard on the Respondent's motion to dismiss, due notice having been given, no objection having been filed, and the Court being advised, finds:

Claimant filed this claim seeking to recover the amount of an unemployment insurance warrant issued by the Illinois Department of Employment Security. The Division of Benefit Payment Control of the Department of Employment Security holds administrative hearings to

determine whether a warrant should be reissued. The claims adjudicator denied reissuance of the warrant.

Section **3—104** of the Code of Civil Procedure (Ill. Rev. Stat. **1987,** ch. **110,** par. **3—104)** states that jurisdiction to review final administrative decisions is vested in the circuit court. The fact that the review of the decision of the Division of Benefit Payment Control is provided through administrative review in the circuit court prevents the Court of Claims from assuming jurisdiction over claims such as the instant one. ***Rivera v. State*** (1981), **35** Ill. Ct. Cl. **375;** ***Moore v. State*** (1980), **34** Ill. Ct. Cl. **108;** ***Anaya v. State*** (1980), **34** Ill. Ct. Cl. **161.**

We further find that Respondent's counsel learned that, notwithstanding and unaware of the above Court of Claims decision, attorneys for the Legal Assistance Foundation of Chicago and the Department of Employment Security entered into a consent decree before Federal Judge Prentice Marshall in a case entitled ***Burns.*** **As** part of such decree, the parties agreed to add language to Benefit Payment Control's written administrative decisions that suggested that a person aggrieved by the decision should proceed in the Court of Claims. Respondent's counsel informed both the Legal Assistance Foundation and the Illinois Department of Employment Security of the jurisdictional problem of which the signers of the consent decree were unaware. The Department of Employment Security is attempting to resolve this problem by administratively reissuing or rehearing those pending cases, such as the instant one, where review was erroneously sought in the Court of Claims, so that claimants will have enough time to seek review in the circuit court.

In the motion at bar, Kespondent seeks dismissal

without prejudice and with leave to file if the benefit control division of the Department of Employment Security does not reissue its administrative decision. Respondent does not indicate how the Court should proceed with the case should it be dismissed and then refiled. Jurisdiction cannot be vested with a court solely based on agreement of the parties and Respondent does not suggest the cited cases are wrong.

Wherefore, it is hereby ordered that this claim be, and hereby is, dismissed for lack of jurisdiction and without leave to refile.

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(No. 89-CC-0058—Claim dismissed.)

WILLIE WHITE, Claimant, *v.* THE STATE OF ILLINOIS, Respondent.

*Order filed July* 13, 1992.

WILLIE WHITE, *pro se,* for Claimant.

ROLAND W. BURRIS, Attorney General (STEVEN SCHMALL, Assistant Attorney General, of counsel), for Respondent.

***JURISDICTION—jurisdiction to review final administrative decisions is vested in circuit court.*** Section 3—104 of the Code of Civil Procedure provides that jurisdiction to review final administrative decisions is vested in the circuit court.

SAME—*employment—claim seeking to recover amount of unemployment insurance warrant issued by State dismissed for lack of jurisdiction.* In a claim seeking to recover the amount of an unemployment insurance warrant issued by the Illinois Department of Employment Security, where the claims adjudicator for the Department's Division of Benefit Payment Control denied reissuance of the warrant after an administrative hearing, the Court of Claims was without jurisdiction to review the decision and the claim was dismissed notwithstanding an agreement by the parties that an aggrieved individual should proceed in the Court of Claims, since jurisdiction over the

matter was vested in the circuit court and could not be altered by the parties' agreement.

## ORDER

MONTANA, C.J.

This cause comes on to be heard on the Respondent's motion to dismiss, due notice having been given, no objection having been filed, and the Court being advised, finds:

Claimant filed this claim seeking to recover the amount of an unemployment insurance warrant issued by the Illinois Department of Employment Security. The Division of Benefit Payment Control of the Department of Employment Security holds administrative hearings to determine whether a warrant should be reissued. The claims adjudicator denied reissuance of the warrant.

Section 3—104 of the Code of Civil Procedure (Ill. Rev. Stat. 1987, ch. 110, par. **3—104)** states that jurisdiction to review final administrative decisions is vested in the circuit court. The fact that the review of the decision of the Division of Benefit Payment Control is provided through administrative review in the circuit court prevents the Court of Claims from assuming jurisdiction over claims such as the instant one. ***Rivera v.*** *State* (1981), *35* Ill. Ct. Cl. 375; *Moore v. State* (1980), 34 Ill. Ct. Cl. 108; *Anaya v. State* (1980), 34 Ill. Ct. Cl. 161.

We further find that Respondent's counsel learned that, notwithstanding and unaware of the above Court of Claims decision, attorneys for the Legal Assistance Foundation of Chicago and the Department of Employment Security entered into a consent decree before Federal Judge Prentice Marshall in a case entitled ***Burns.*** As part of such decree, the parties agreed to add language to Ben-

efit Payment Control's written administrative decisions that suggested that a person aggrieved by the decision should proceed in the Court of Claims. Respondent's counsel informed both the Legal Assistance Foundation and the Illinois Department of Employment Security of the jurisdictional problem of which the signers of the consent decree were unaware. The Department of Employment Security is attempting to resolve this problem by administratively reissuing or rehearing those pending cases, such as the instant one, where review was erroneously sought in the Court of Claims, so that claimants will have enough time to seek review in the circuit court.

In the motion at bar, Respondent seeks dismissal without prejudice and with leave to file if the benefit control division of the Department of Employment Security does not reissue its administrative decision. Respondent does not indicate how the Court should proceed with the case should it be dismissed and then refiled. Jurisdiction cannot be vested with a court solely based on agreement of the parties and Respondent does not suggest the cited cases are wrong.

Wherefore, it is hereby ordered that this claim be, and hereby is, dismissed for lack of jurisdiction and without leave to refile.

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(No. **89-CC-0847—Claim dismissed.)**

**KICHARD R. OLDENDORF, Claimant,** *v.* **THE STATE OF ILLINOIS, Respondent.**

*Order filed July* **13, 1992.**

**RICHARD** R. OLDENDORF, *pro se,* for Claimant.

ROLAND W. BURRIS, Attorney General (STEVEN SCHMALL, Assistant Attorney General, of counsel), for Respondent.

JURISDICTION—*jurisdiction to review final administrative decisions is vested in circuit court.* Section **3—104** of the Code of Civil Procedure provides that jurisdiction to review final administrative decisions is vested in the circuit court.

SAME—*employment—claim seeking to recover amount of unemployment insurance warrant issued by State dismissed for lack of jurisdiction.* In a claim seeking to recover the amount of an unemployment insurance warrant issued by the Illinois Department of Employment Security, where the claims adjudicator for the Department's Division of Benefit Payment Control denied reissuance of the warrant after an administrative hearing, the Court of Claims was without jurisdiction to review the decision and the claim was dismissed notwithstanding an agreement by the parties that an aggrieved individual should proceed in the Court of Claims, since jurisdiction over the matter was vested in the circuit court and could not be altered by the parties' agreement.

ORDER

MONTANA, C.J.

This cause comes on to be heard on the Respondent's motion to dismiss, due notice having been given, no objection having been filed, and the Court being advised, finds:

Claimant filed this claim seeking to recover the amount of an unemployment insurance warrant issued by the Illinois Department of Employment Security. The Division of Benefit Payment Control of the Department of Employment Security holds administrative hearings to determine whether a warrant should be reissued. The claims adjudicator denied reissuance of the warrant.

Section **3—104** of the Code of Civil Procedure (Ill. Rev. Stat. 1987, ch. 110, par. **3—104)** states that jurisdiction to review final administrative decisions is vested in the circuit court. The fact that the review of the decision of the Division of Benefit Payment Control is provided

through administrative review in the circuit court prevents the Court of Claims from assuming jurisdiction over claims such as the instant one. *Rivera v. State* (1981), *35* Ill. Ct. Cl. *375; Moore v. State* (1980), **34** Ill. Ct. Cl. 108; *Anaya v. State* (1980), 34 Ill. Ct. Cl. 161.

We further find that Respondent's counsel learned that, notwithstanding and unaware of the above Court of Claims decision, attorneys for the Legal Assistance Foundation of Chicago and the Department of Employment Security entered into a consent decree before Federal Judge Prentice Marshall in a case entitled ***Bums.*** As part of such decree, the parties agreed to add language to Benefit Payment Control's written administrative decisions that suggested that a person aggrieved by the decision should proceed in the Court of Claims. Respondent's counsel informed both the Legal Assistance Foundation and the Illinois Department of Employment Security of the jurisdictional problem of which the signers of the consent decree were unaware. The Department of Employment Security is attempting to resolve this problem by administratively reissuing or rehearing those pending cases, such as the instant one, where review was erroneously sought in the Court of Claims, so that claimants will have enough time to seek review in the circuit court.

In the motion at bar, Respondent seeks dismissal without prejudice and with leave to file if the benefit control division of the Department of Employment Security does not reissue its administrative decision. Respondent does not indicate how the Court should proceed with the case should it be dismissed and then refiled. Jurisdiction cannot be vested with a court solely based on agreement of the parties and Respondent does not suggest the cited cases are wrong.

Wherefore, it is hereby ordered that this claim be, and hereby is, dismissed for lack of jurisdiction and without leave to refile.

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(No. 89-CC-1116—Claim denied.)

ROBERT CASTLEMAN, Claimant, *v.* THE STATE OF ILLINOIS, Respondent.

*Opinion filed March 30, 1993*

ROBERT CASTLEMAN, *pro se*, for Claimant.

ROLAND W. BURRIS, Attorney General (CHRISTINE K. WELLS, Assistant Attorney General, of counsel), for Respondent.

*PRISONERS AND* INMATES—***State must have been able to anticipate attack by fellow prisoner in order to be held liable.*** Even where a prison's institutional procedures are violated and the violation permits one inmate to attack and injure another, there is no liability in the absence of proof that agents of the State anticipated or should have anticipated the attack.

***SAME—inmate assaulted while in prison's protective custody unit—claim dismissed.*** Where the Claimant was attacked by a fellow inmate in a prison's protective custody unit when several prisoners were released at once to go to the prison showers, the Claimant's negligence action based on the State's failure to protect him was denied, since there was no indication that the inmate in question intended to attack the Claimant and the State had no reason to anticipate his actions, and virtually no time elapsed from the time of the attack until a guard who was present stepped in and halted the incident.

## OPINION

PATCHETT, J.

Claimant was a resident of the Illinois Department of Corrections at the time of the injuries complained of. He seeks judgment in the sum of $100,000 as a result of physical injuries received from another inmate. The

Claimant contends that the Respondent's agents negligently failed to protect the Claimant while he was in the protective custody unit.

On February 27, 1988, Claimant was held in the protective custody unit at Menard Psychiatric Center. There are 55 cells in the unit, and a shower at the end of the unit. On the date in question, the inmates were asked if they wanted to take showers. Claimant replied in the affirmative, and later he and other inmates were released from their cells. The mass release of the inmates was a traditional procedure. Claimant did, however, have the option of not taking a shower.

Approximately 11 to 15 inmates were released at one time. As the Claimant left his cell, he was attacked by another inmate and struck in the head twice. An officer was present when the Claimant was struck, and immediately put an end to the confrontation. Claimant was knocked back, and his head was injured in a very minor manner. He was cut in the left temple area leaving a very small scar that could not be observed from a distance of six or seven feet. He received medical treatment, but the wound was not sufficiently serious to require suturing. Claimant has no present problems as a result of injuries sustained.

Claimant believes that the procedure used in letting inmates out of their cells for shower purposes was a proximate cause of his injury. On cross-examination, he testified that there was no indication that the inmate in question intended to strike or assault him. The guard present stepped in and broke the incident up as soon as he saw the attack. Claimant did not see the assailant approaching prior to the assault.

The entire case is based on the proposition that the

agents of the Respondent failed to give him adequate protection from attack, despite the fact that virtually no time elapsed from the time he was attacked until a guard arrived and stopped the incident.

This Court has considered similar claims on repeated occasions. In *Childs v. State* (1985), **38** Ill. Ct. Cl. 196, this Court reiterated the rule that, in the absence of proof that the Respondent's agents anticipated, or should have anticipated, that third persons would commit criminal acts against a Claimant, there is no liability. This Court has even held that where institutional procedures were in fact violated, and the violation permitted one inmate to attack and injure another, there is no liability in the absence of proof that the agents of the Respondent anticipated or should have anticipated the attack. ***Carey v. State*** (1981), ***35*** Ill. Ct. Cl. 96; *Daugherty v.* ***State*** (1991), ***43*** Ill. Ct. Cl. **316.**

Therefore, for the reasons stated above, we hereby deny this claim.

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(No. 89-CC-1172—Claim dismissed.)

BETTY J. HADLEY, Claimant, ***v.*** THE **STATE** OF **ILLINOIS,** Respondent.

*Order filed July 13,* 1992.

BETTY J. HADLEY, ***pro se,*** for Claimant.

ROLAND W. BURRIS, Attorney General (STEVEN SCHMALL, Assistant Attorney General, of counsel), for Respondent.

***JURISDICTION—jurisdiction to review final administrative decisions is vested in circuit court.*** Section 3—104 of the Code of Civil Procedure provides

that jurisdiction to review final administrative decisions is vested in the circuit court.

SAME—*employment—claim* ***seeking to recover amount*** *of unemployment* ***insurance*** *warrant* ***issued by State dismissed*** *for* ***lack*** *of jurisdiction.* In a claim seeking to recover the amount of an unemployment insurance warrant issued by the Illinois Department of Employment Security, where the claims adjudicator for the Department's Division of Benefit Payment Control denied reissuance of tlie warrant after an administrative hearing, the Court of Claims was without jurisdiction to review tlie decision and the claim was dismissed notwithstanding an agreement by the parties that an aggrieved individual should proceed in tlie Court of Claims, since jurisdiction over the matter was vested in the circuit court and could not be altered by the parties' agreement.

ORDER

**MONTANA,** C.J.

This cause comes on to be heard on the Kespondent's motion to dismiss, due notice having been given, no objection having been filed, and the Court being advised, finds:

Claimant filed this claim seeking to recover the amount of an unemployment insurance warrant issued by the Illinois Department of Employment Security. The Division of Benefit Payment Control of the Department of Employment Security holds administrative hearings to determine whether a warrant should be reissued. The claims adjudicator denied reissuance of the warrant.

Section 3—104 of the Code of Civil Procedure (Ill. Rev. Stat. 1987, ch. 110, par. 3—104) states that jurisdiction to review final administrative decisions is vested in the circuit court. The fact that the review of the decision of the Division of Benefit Payment Control is provided through administrative review in the circuit court prevents the Court of Claims from assuming jurisdiction over claims such as the instant one. ***Rivera v. State*** (1981), 35 Ill. Ct. Cl. 375; ***Moore v. State*** (1980), 34 Ill. Ct. Cl. 108; ***Anaya v. State*** (1980), 34 Ill. Ct. Cl. 161.

We further find that Respondent's counsel learned that, notwithstanding and unaware of the above Court of Claims decision, attorneys for the Legal Assistance Foundation of Chicago and the Department of Employment Security entered into a consent decree before Federal Judge Prentice Marshall in a case entitled ***Bums.*** As part of such decree, the parties agreed to add language to Benefit Payment Control's written administrative decisions that suggested that a person aggrieved by the decision should proceed in the Court of Claims. Respondent's counsel informed both the Legal Assistance Foundation and the Illinois Department of Employment Security of the jurisdictional problem of which the signers of the consent decree were unaware. The Department of Employment Security is attempting to resolve this problem by administratively reissuing or rehearing those pending cases, such as the instant one, where review was erroneously sought in the Court of Claims, so that claimants will have enough time to seek review in the circuit court.

In the motion at bar, Respondent seeks dismissal without prejudice and with leave to file if the benefit control division of the Department of Employment Security does not reissue its administrative decision. Respondent does not indicate how the Court should proceed with the case should it be dismissed and then refiled. Jurisdiction cannot be vested with a court solely based on agreement of the parties and Respondent does not suggest the cited cases are wrong.

Wherefore, it is hereby ordered that this claim be, and hereby is, dismissed for lack of jurisdiction and without leave to refile.

(No. 89-CC-1374—Claim dismissed.)

SHARI HOLLOWAY, a minor, by CLARA HOLLOWAY, her Mother, Claimant, *v.* THE BOARD OF TRUSTEES OF THE UNIVERSITY OF ILLINOIS, Respondent.

*Order filed October 28, 1991.*

*Order filed May 15, 1992.*

*Order filed September 25, 1992*

BRUSTIN, SORKIN & NUSSBAUM, for Claimant.

FRATERRIGO, BEST & BERANEK, for Respondent.

NEGLIGENCE—*what Claimant must establish.* In an action alleging negligence, the Claimant must establish the existence of a duty, a breach of that duty and an injury proximately resulting from the breach of that duty, and where a defect on the Respondent's premises is alleged to have caused the Claimant's injury, the Claimant must show that the Respondent had actual notice of the alleged defect.

*PRACTICE AND PROCEDURE—when party is entitled to summary judgment.* A party is entitled to summary judgment when there is no genuine issue of material fact and the pleadings, depositions, affidavits and other documents show that the movant is entitled to summary judgment as a matter of law, and although Claimants are not required to prove their case at the time of the Respondent's motion for summary judgment, they must present some factual basis that would entitle them to some judgment under applicable law.

NEGLIGENCE—*student injured when glass* door *shattered—no evidence of defect or notice of defect—claim dismissed.* In a negligence action filed by a university student as a result of injuries she sustained when she placed her hands against a glass door of a university building to open it and the glass shattered, the State's motion for summary judgment was granted and the claim was dismissed, since the Claimant provided no evidence of any specific defect that caused the glass to break, and there was no indication that the State had notice of a defect where neither the Claimant, or any other person to her knowledge, had previously complained about the door or been injured by it.

## ORDER

JANN, J.

This cause coming on to be heard on the motion of Respondent for summary judgment, due notice having

been given and the Court being fully advised in the premises, this Court hereby finds that:

Claimant, a student at the University of Illinois, Chicago, seeks damages for personal injuries sustained on July 29, 1987, while leaving Taft Hall on the university campus. Respondent moved for summary judgment on the grounds that Claimant could not identify a specific defect which proximately caused her injuries and that Claimant could not show that Respondent had notice of any adverse condition sufficient to prove that Respondent breached a duty of care to Claimant. In support of its motion, Respondent attached a series of exhibits including Claimant's complaint, Respondent's answer to the complaint and Claimant's deposition.

Claimant's discovery deposition was taken on March 28, 1991. Claimant testified that on July 27, 1987, she was at Taft Hall on the University of Illinois, Chicago campus, to meet with a teacher regarding some of her classes. Further testimony disclosed the following:

The accident occurred as Claimant and two friends were exiting Taft Hall through two sets of doors leading to a second floor bridge across Harrison Street. Claimant testified that she had passed through said doors virtually every school day prior to the accident. **As** Claimant was exiting the first set of glass doors, rather than using the door handle, she put both hands on the glass to open the left side door and in so doing, the glass shattered and she was injured. Both of Claimant's friends had already passed through the outer set of doors and had their backs to Claimant at the time of the accident. There were no other witnesses to the incident. Claimant stated she saw no defect in the door prior to the accident and was

unaware of anyone being injured at the Taft Hall location prior to her accident.

In an action alleging negligence, Claimant must establish the existence of a duty, a breach of that duty and an injury proximately resulting from the breach of that duty. (*Horell v. City of Chicago* (1986), 145 Ill. App. 3d 428, 495 N.E.2d 1259.) A party is entitled to summary judgment when there is no genuine issue of material fact and the pleadings, depositions, affidavits and other documents show that the movant is entitled to summary judgment as a matter of law. (*Tunk v. Village of Willow Springs* (1983), 120 Ill. App. 3d 800, 458 N.E.2d 1132.) In addition, although claimants at the time of the respondent's motion for summary judgment are not required to prove their case, they are required to present some factual basis that would entitle them to some judgment under applicable law. *Kimbrough v. Jewel Cos.* (1981), 91 Ill. App. 3d 813,416 N.E.2d 328.

Liability cannot be predicated upon surmise or conjecture as to the cause of liability. (*Zonta v. Village of Bensenville* (1988), 167 Ill. App. 3d 354, 521 N.E.2d 274; *Monaghan v. Dipaulo Construction Co.* (1986), 140 Ill. App. 3d 921,923,489 N.E.2d 409; *Vance v. Lucky Stores, Znc.* (1985), 134 Ill. App. 3d 166, 168, 480 N.E.2d 177.) In *Zonta v. Village of Bensenville,* plaintiff was injured when he leaned upon defendant's window, which subsequently shattered and caused injury. (*Supra,* at 356.) The appellate court of Illinois in upholding the trial court's granting of summary judgment in favor of defendant stated that plaintiff offered no hint .as to what defect in the glass caused his injury other than his speculation that the glass might have been too thin. The court cited the holdings in *Monaghan* and *Vance* in pointing out that liability cannot be predicated on surmise or conjecture as to

the cause of liability, but rather plaintiff must establish a ***primafacie*** case that some specific defect in the glass must be shown to have been the cause of plaintiff's injury; otherwise summary judgment is proper. (***Supra,*** at 360.) Claimant specifically stated in her deposition that she did not know what caused the glass to break. Claimant has not made a response to Respondent's motion and has provided no evidence of any defect in the glass doors in her pleadings or testimony.

In addition to Claimant's inability to identify any specific defect that caused the glass to break, she is also unable to establish that Respondent had actual or constructive notice of any defect on the premises which is necessary to hold Respondent liable. In order to prevail against the University, Claimant must show that:

a. The University had actual knowledge that there was some defect existing in the glass and failed to remedy the situation; or

b. The defect existed for a sufficient length of time so that it should have been discovered through reasonable diligence, thereby charging the University with constructive notice of its presence. ***Hayes v. Bailey*** (1980), 80 Ill. App. 3d 1027, 400 N.E.2d 544; ***Hresil v. Sears Roebuck & Co.*** (1980), 82 Ill. App. 3d 1000, 403 N.E.2d 678.

In Claimant's discovery deposition, she admits that she has no personal knowledge of whether the University of Illinois was aware of the condition of the door. She also admits that she had never seen anyone else injured by broken glass, never heard anyone complain about that door, and never personally made any complaints about the door.

The Court finds *Zonta* persuasive in the instant matter. Claimant has failed to identify a specific defect which proximately caused her injury and thereby cannot prove a ***prima facie*** case of negligence. Claimant has further failed to show that Respondent had notice of any adverse

condition sufficient to prove that Respondent breached a duty of care to the Claimant.

Wherefore, it is hereby ordered that Respondent's motion for summary judgment is granted and this cause be dismissed.

ORDER

JANN, J

This cause coming on to be heard on Claimant's motions to vacate the summary judgment order entered on October **28,** 1991, and for leave to file an amended complaint, Respondent's responses and objections having been filed and all parties having notice, and the Court being fully advised, it is hereby ordered that Claimant's motions to vacate the summary judgment order of October 28, 1991, and motion for leave to file an amended complaint are denied.

ORDER

JANN, J.

This cause comes on to be heard on the motion of Claimant to reconsider an order entered May 15, 1992, denying Claimant's motion to vacate the previous order of October 28, 1991, granting summary judgment to Respondent. Claimant has filed certain affidavits and Respondent has filed a response and motion to strike Claimant's affidavits. The Court being fully advised in the premises finds:

1. Claimant's motion to vacate the order of May 15, 1992, is denied.

2. The affidavit of Henry Mikdajczk is stricken from the record.

(No. 89-CC-1443—Claimant awarded $900.)

JOE PETERSON, a/k/a TONY BAILEY, Claimant, *v.*
THE STATE OF ILLINOIS, Respondent.

*Opinion filed November 6, 1992.*
*Order filed December* 18, 1992.

ROBERT M. HODGE, for Claimant.

ROLAND W. BURRIS, Attorney General (GREGORY ABBOTT, Assistant Attorney General, of counsel), for Respondent.

PRISONERS AND INMATES—*state's duty to supervise work of inmates and to provide safe work conditions and tools.* The Department of Corrections has a duty to supervise the work of inmates in State penitentiaries, to provide inmates with safe conditions in which to perform their assigned work, and to provide them with adequate work tools.

SAME—*inmate roofer burned by hot tar—State liable—award reduced to reflect inmate's Contributory negligence.* Although the State was liable for failing to provide an inmate with a safe work environment by making him transport hot tar to a roof on a pulley and carry it across the roof in open buckets, and by leaving a roll of tar paper out of position on the roof, thereby resulting in bums to the inmate's arm when he lowered the bucket and hit the roll of tar paper causing hot tar to splash, the inmate's damages were reduced by 40 percent to reflect his contributory negligence in not observing where he had placed the bucket.

## OPINION

**FREDERICK,** J.

Claimant, Joe Peterson, filed his complaint in the Court of Claims on November 14, 1988. He seeks damages against the State for injuries he received while working as an inmate roofer at the prison at Stateville in August of 1988.

The case was tried by the commissioner assigned to the case. The evidence consists of the transcript of Claimant's deposition, a medical report, and an inmate injury report, all of which were stipulated into evidence by the parties. The Claimant, after trial, has sought to introduce

a group of photographs of Claimant to show the injury to the arm. The motion to admit Claimant's Group Exhibit No. 4 is allowed and the photographs will be considered as evidence in the case. The State presented no evidence. The Claimant filed a brief. The State failed to file a brief.

## The Facts

Claimant was an inmate at Stateville penitentiary in the Illinois Department of Corrections in August of 1988. Claimant is also known as Tony Bailey. On August 22, 1988, Claimant was working as a roofer on a roofing job at Stateville penitentiary. He had been working this job approximately 1½ months, but had no previous experience with roofing work prior to his incarceration. His foreman on the job was Jim McClure. The Claimant's job was to pull buckets of hot tar up to the roof with a pulley at the edge of the roof and then carry the buckets and pour those buckets into a larger bucket some six feet from the pulley. On this roof job, Claimant was on the roof. This was only his second roof job. On the first roof job, he had done most of his work while on the ground. Securing the pulley to the roof were rolls of tar paper which would eventually be used for the roofing job itself.

On the day in question, the Claimant took a five-gallon bucket of hot tar from the pulley and started to walk the six feet to the larger bin. As he lowered the bucket of tar and began walking, the bucket hit a roll of tar paper which was out of position and which was approximately four or five inches off the ground. Claimant saw the roll of tar paper just before he hit it with the bucket. Upon contact, the bucket forced some of the tar into the air, hitting the Claimant on the hand and arm and causing scarring of his right arm. He was wearing gloves at the time. Claimant admitted that he did not bother to look at

the particular spot where he lowered the bucket. He was looking at his foreman. Further, the roll of tar paper was only two or three inches away from the bucket stand.

After Claimant was splattered with the hot tar, the foreman put Claimant's arm in a bucket of cold water. He was then taken to the hospital. The tar, which attains temperatures of 550°, was scraped off Claimant's arm and they put cream on the injury. He was told it was a third-degree burn. Claimant went to the infirmary a few times over the next month for treatment. He had pain and was given Motrin. His wound was also redressed. Once in a while, Claimant's hand shakes, but there was no medical evidence relating this condition to the tar accident. The pain stopped eventually after two or three weeks. The Motrin helped with the pain. Claimant incurred no doctor bills. Claimant has various burn-mark scars on his right arm between the wrist and elbow, primarily on the inside of his arm. They range anywhere from three to four inches and are in various shapes. The medical progress notes substantiate Claimant's injuries and pain.

## The Law

The Department of Corrections has a duty to supervise the work of inmates in State penitentiaries and to provide inmates with safe conditions in which to perform their assigned work and to provide inmates adequate work tools. *(Hughes v. State* (1984), *37* Ill. Ct. Cl. 251.) The supervisory personnel of the roof work should have known that pulling hot tar on a pulley and carrying the 550° tar in open buckets presented a dangerous condition to Claimant. Having tar paper lying out of position on the roof presents an even more dangerous condition. ***(Reddock*** *v. State* (1978), *32* Ill. Ct. Cl. 611.) An inmate of a penal institution does not have the liberty of choice available to

a person in private industry and must work under conditions that are assigned to him. This Court has recognized that an inmate of a penal institution is not ordinarily free to refuse to perform a task even if he considers his working conditions unsafe. (*Reddock v. State* (1978), *32* Ill. Ct. Cl. 611.) The Claimant was new to roofing work. The tar paper that was hit by the bucket, causing the hot tar to splash on Claimant, was out of place. We find that Claimant has proven that Respondent failed to provide Claimant with a safe environment in which to perform his assigned tasks. Claimant, however, has failed to show his freedom from contributory negligence. Claimant admitted he did not look where he was putting the bucket down. We find comparative negligence at 40% on the part of Claimant. Claimant had some pain for two to three weeks. The Motrin helped the pain. Claimant does have some scarring on his arm. There is no competent proof of permanent injury which would affect Claimant's ability to work. (*Hughes v. State* (1984), *37* Ill. Ct. Cl. 251.) We find that, due to Respondent's negligence, Claimant was damaged in the amount of $1,500, but that the award should be reduced to $600 due to the negligence of Claimant.

It is therefore ordered that the Claimant be granted an award in the amount of $600.

ORDER

FREDERICK, J.

This cause coming on to be heard on the motion of Claimant to correct award, and the Court being fully advised in the premises;

It is hereby ordered that Claimant's motion to correct

the award is granted. Claimant is awarded $900 and the prior award of $600 is vacated.

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(No. 89-CC-2805—Claim denied.)

MORRIS WENETSKY, Claimant, *v.* THE STATE OF ILLINOIS, Respondent.

***Opinionfiled March 30, 1993.***

RUSSELL J. STEWART, for Claimant.

ROLAND W. BURRIS, Attorney General (STEVEN SCHMALL, Assistant Attorney General, of counsel), for Respondent.

JURISDICTION—*Court of Claims had nojurisdiction to review Claimant's job classification.* Where a State employee was hired to the position of storekeeper III shortly before the State reclassified all positions in the storekeeper category with a single storekeeper title, and the employee subsequently went on disability leave but refused to work as a storekeeper upon his release for "light duty" work because the position required heavy lifting, the Court of Claims was without jurisdiction to review the denial of the employee's grievance concerning his job classification, since jurisdiction was with the Department of Personnel, the Merit Commission, and the circuit court on judicial review.

EMPLOYMENT—*employee's claim for back wages denied.* In a former employee's claim for back wages alleging that, after he sought an injunction in the chancery court to require the State to place him back to work following his disability leave from the position of storekeeper, the parties had resolved the matter resulting in dismissal of the action and his return to work, there was no evidence that the employee had been returned to work with "light duty" conditions, or in any capacity other than storekeeper, nor was there proof as to the terms of any settlement which would entitle the employee to back wages, and the claim was denied.

## OPINION

SOMMER, C.J.

This is a claim by a former State employee for lost

wages from April 7,1986, to August 22,1988.

From the testimony introduced at the hearing before Commissioner Griffin, it appears that on May 1, 1981, the Claimant, Morns Wenetsky, was employed by the office of the Secretary of State as a Storekeeper III. The position of Storekeeper III and other storekeeper titles were abolished by the Secretary of State's merit commission on September 16, 1981. All position classifications in the storekeeper category became a single storekeeper title. The Claimant was certified as a storekeeper on November 1, 1981. The Claimant suffered no loss of pay when the position classifications were abolished, and had not been certified prior to the change.

The claimant went on leave August 12, 1985, until September 19, 1985. He later went on a nonservice disability leave which expired April 7, 1986. On April 7, 1986, the Claimant returned to work, but refused to work as a storekeeper when the Secretary of State demanded that he do so. The Claimant did not return to work the next day.

The dispute centers around the fact that the Claimant was released for work by his physician with a "light duty" restriction. The Secretary of State contended that there was no provision for "light duty" in a storekeeper's position, as part of the duties of a storekeeper required the lifting of various objects, so the Secretary of State refused to allow the Claimant to work.

The Claimant filed a grievance on the issue of his job classification with the Secretary of State's Department of Personnel. The grievance was denied May 12, 1986, after a hearing. The complaint filed in this Court states,

"That Wenetsky filed a Complaint in Administrative Review in 1986, which was dismissed on the grounds that a third level grievance decision is not final and appealable, and that only a Merit Board decision is appealable to the

Circuit Court."

Jurisdiction over the Claimant's job classification was with the Secretary of State's Department of Personnel, the merit commission, and circuit court on judicial review. (Ill. Rev. Stat., ch. 124, par. 101 et. *seq.*) This Court has no jurisdiction in personnel matters where adequate remedies are provided in a court of general jurisdiction. (*Halima v.* State (1989), 41 Ill. Ct. Cl. 193.) Therefore, this Court has no jurisdiction to decide the issue of the Claimant's job classification.

As the Secretary of State's classification of the Claimant as a storekeeper was upheld by the Department of Personnel and the circuit court, the Claimant's argument that he somehow continued to be a Storekeeper III fails, absent further orders by or settlements in the circuit court.

In 1988, the Claimant filed in the chancery division of the circuit court of Cook County to seek an injunction to require the Secretary of State to place the Claimant back to work. The Claimant contends that the matter was resolved by negotiations, with a result that he went back to work and the action was dismissed. The Claimant presented into evidence no written document or third-party testimony as to any terms of the settlement which would entitle him to back wages. The Claimant simply went to work on August 22, 1988, and resigned on August 26, 1988.

There is no evidence that the Claimant returned to work with "light duty" conditions or in any capacity other than as a storekeeper. We find that the burden of proof is on the Claimant to prove the terms of any settlement which would entitle him to back wages, and we further find that he has not met this burden. It is therefore

ordered that this claim is denied.

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(No. 89-CC-3429—Claimant awarded $5,019.)

**THIEMS CONSTRUCTION CO., Claimant, *v.*
THE STATE OF ILLINOIS, Respondent.**

***Opinion filed May 10, 1993.***

FLYNN & GUYMON, for Claimant.

ROLAND W. BURRIS, Attorney General (RANDY E. BLUE, Assistant Attorney General, of counsel), for Respondent.

CONTRACTS—*utilization of minority contractors in highway improvement contracts—good faith efforts required by general contractor.* Pursuant to section 645 of the Illinois Administrative Code, a general contractor for a highway improvement contract must make a written request for modification of provisions concerning the use of women subcontractors in the event that such a subcontractor is unable to perform, and if the Department of Transportation determines that a general contractor has failed to use good faith efforts toward the goal of securing women subcontractors, the Department is authorized to impose sanctions, including withholding payment for that portion of the goal which has not been met.

SAME—*definition of good faith.* Good faith between contracting parties requires one vested with contractual discretion to exercise it reasonably and not arbitrarily, and in good faith, which is a subjective standard to be determined by the facts in each case, implies honest, lawful intent and is the condition of acting without knowledge of fraud and without intent to assist in a fraudulent or otherwise unlawful scheme.

SAME—*party seeking to enforce contract has burden of proving substantial compliance.* The party seeking to enforce a contract has the burden of proving that he has substantially complied with all material terms of the agreement.

SAME—*general contractor made good faith efforts to meet requirements for employment of minority subcontractors—award granted.* In a breach of contract action stemming from the State's refusal to pay the Claimant general contractor the full amount owed under a highway improvement contract due to the contractor's alleged failure to comply with requirements for utilizing minority subcontractors, the Claimant was entitled to the full amount due from the State notwithstanding that the goal of hiring women

subcontractors was not met, since the evidence showed that, after the woman subcontractor hired by the Claimant failed to perform, the Claimant made good faith efforts to secure other women subcontractors.

## OPINION

PATCHETT, J.

The nature of this claim is breach of contract. This Court has jurisdiction pursuant to section 8(a) of the Court of Claims Act (Ill. Rev. Stat., ch. 37, pars. 439.8(a), (b).) The Claimant asks for an award of $5,019, which represents an amount the Respondent has refused to pay due to an alleged breach of part 645, subtitle B, title 44, of the Illinois Administrative Code, dealing with the utilization of minority subcontractors in highway improvement contracts.

The facts leading up to the controversy are not seriously in dispute. Thiems Construction Co., Inc., hereinafter referred to as Thiems, and the Illinois Department of Transportation, hereinafter referred to as DOT, entered into a contract whereby it was agreed that Thiems would act as a general contractor. The purpose of the contract was to build turn lanes from Route 162 onto Interstate 255, in addition to some storm sewer work. As part of the agreement, DOT required Thiems to subcontract at least 10% of the work to disadvantaged businesses (DBE) and 2% to woman-owned businesses (WBE).

Thiems fulfilled its DBE obligations by utilizing J. Craig Construction, Inc. Regarding the WBE obligations, Thiems proposed to fulfill its obligation by allocating certain work to Nollau Nurseries, Inc., and R. McMillin Truck Service, Inc. There is no dispute that Nollau Nurseries, Inc., completed its work and was paid. DOT, however, charges that Thiems failed to comply with its contract obligations, in that it underpaid McMillin Truck

Service in the amount of $5,019.

Because of the circumstances surrounding the alleged underpayment of McMillin Truck Service, DOT relies on part 645, subtitle B, title 44, of the Illinois Administrative Code, as a defense for withholding the payment. The above-cited Administrative Code provision requires a general contractor to make a written request for modification or waiver of the provision concerning the use of WBEs in the event a WBE is unable to perform. (Section 645.30, Ill. Admin. Code.) Upon receiving this request, DOT will assist the general contractor in locating another WBE by using what amounts to a master list of all qualified **WBEs** located in the area of the construction project. If another WBE cannot be found, DOT must modify the goal so that the goal equals the amount of work for which minority contractors have been located. (Section 645.20.) If DOT determines the general contractor has failed to use good-faith efforts in securing a WBE, or has somehow caused the WBE goal not to be met, then it is authorized to impose sanctions, including the withholding of payment for that portion of the goal which has not been met. Section 645.50, Ill. Admin. Code, ***supra.***

In the present case, Thiems has produced evidence showing that McMillin WBE was unable to provide **all** the trucking services required of it. McMillin had been hired to haul dirt for the building of **an** embankment, but when the time for performance came, McMillin had most of its trucks busy hauling asphalt for another job. Because McMillin was unable to locate enough trucks to properly do its job, DOT was forced to hire other trucking companies to help with that haul. The testimony of Thiems indicates that had it waited until McMillin could perform, **the** project would have been shut down. McMillin was there-

fore able to do some of the work, but not all of it. Gary Theims, Thiems' president, testified that after receiving word of McMillin's failure to perform, an effort was made to contact all other WBEs within an economically feasible range of the construction site, defined to be a 25- to 40-mile radius of the construction site. This effort produced an inquiry by Jaydon Construction, a qualified WBE. Due to a union conflict, that company was likewise unable to perform. No other WBEs expressed any interest in the job.

It is undisputed that, but for the trucking services, all other subcontracting and material supply for the job had been contracted out to other businesses. There is also no disagreement that, had Thiems contacted DOT on a more timely basis concerning the inability to perform by McMillin, DOT would have performed virtually the same procedure as that performed by Thiems. Although DOT disagrees with Thiems as to whether all available WBEs within the feasible range were contacted, no evidence was produced by DOT supporting their position.

In order to determine whether Thiems has met its burden in this case, it is essential to understand the definition of good faith.

"Good faith between contracting parties requires one vested with contractual discretion to exercise it reasonably and not arbitrarily or capriciously. In addition, the parties to the contract impliedly promise not to do anything that will destroy or injure the other party's rights to receive fruits of the contract."

(*Vincent* v. *Doebert* (1989), 183 Ill. App. 3d 1081, 539 N.E.2d 856; *Prudential Insurance Co. of America* v. *Van Matre* (1987), 158 Ill. App. 3d 298, 511 N.E.2d 740; *Foster Enterprises, Inc. v. Germania Federal Savings & Loan Association* (1981), 97 Ill. App. 3d 22, 421 N.E.2d 1375.) The court in *Crouch v. First National Bank of Chicago* (1895), 156 Ill. 342, 357, 40 N.E. 974, 979, defines good

faith as

"honest, lawful intent; the condition of acting without knowledge of fraud, and without intent to assist in a fraudulent or otherwise unlawful scheme."

Good faith is "honesty in fact in the conduct or transaction concerned according to the Illinois Uniform Commercial Code. (Ill. Rev. Stat., ch. 26, par. 1—201.) In construing the U.C.C. version of good faith, the court in ***Walter E. Heller & Co. v. Convalescent Home of the First Church of Deliverance*** (1977), 49 Ill. App. 3d 213, 365 N.E.2d 1285, 1291, said "good faith is a subjective standard to be determined by the facts in each case." Likewise, good faith, according to ***Schintz v. American Trust & Savings Bank*** (1910), ***152*** Ill. App. **76,** "implies honest intent. It is consistent with negligence, even gross negligence."

In the present case, there is no doubt that the WBE goal was not met, and that Thiems failed to give timely notification to DOT of the causes of that failure. There is uncontradicted testimony, however, that Thiems tried to locate other WBEs in the area. Evidence was also produced to the effect that Thierns went out of its way to try and find other work for McMillin. In addition, it was established that Thiems had exceeded the WBE/DBE goals on earlier projects. Further, it was proven that Theims did ultimately notify DOT of McMillin's failure to perform. There is clearly no indication that Thiems intended to avoid its obligations.

In summary, it is reasonable to assume that DOT, had it known of the failure to perform, would have conducted the very same activities with respect to locating another qualified WBE as did Thiems. DOT admitted that it would be significant in their analysis if the general contractor were required to shut down the job because of problems with a WBE subcontractor. It is clear, therefore, that Thiems exercised good faith in trying to comply

with the WBE goals.

Under contract law, the party seeking to enforce a contract has the burden of proving that he has substantially complied with all material terms of the agreement. (*Goldstein v.* Lustig (1987), 154 Ill. App. 3d 595, 507 N.E.2d 164.) Other than the notification and "good faith" issues, there is no dispute as to Thiems' proper performance of the contract. Under section 645.50 of the Illinois Administrative Code, Thiems is entitled to full and complete payment if he can show good-faith efforts to comply with the goals, whether or not timely notice was given. As has been concluded earlier, Thiems has made good-faith efforts.

We therefore award the Claimant, Thiems Construction Co., Inc., the sum of $5,019. Sufficient funds lapsed in appropriation account code No. 902-49442-7700-0085 to cover the amount awarded.

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(No. 89-CC-3652—Claimant awarded $1,500.)

RODGER THORNTON, Claimant, *v.* THE STATE OF ILLINOIS, Respondent.

*Opinion filed March 30, 1993.*

RODGER THORNTON, *pro se,* for Claimant.

ROLAND W. BURRIS, Attorney General (CHRISTINE M. GIACOMINI, Assistant Attorney General, of counsel), for Respondent.

PRISONERS AND INMATES—*negligence—when accident caused by facility under management of State affords evidence of State's lack of due care.* When an injury has been caused by something under the management of the State, and the injury is such that in the ordinary course of events it would not have happened if the State had exercised proper care, the accident itself affords

reasonable evidence, in the absence of an explanation, that the accident arose from the State's want of due care.

SAME—*Claimant injured by broken toilet unit—State was negligent—damages awarded.* The State's negligence was established and damages were awarded in an inmate's claim for back injuries he sustained when the toilet unit on which he was sitting broke and fell to the floor, since the State had been notified by the Claimant and another inmate prior to the incident that the toilet was loose and leaking from the bottom, but the State failed to repair the defective toilet until after the Claimant was injured.

## OPINION

JANN, J.

Claimant is a prisoner with the Illinois Department of Corrections. Claimant seeks money damages in the amount of $20,000 as a result of injuries he allegedly sustained as a result of a fall from an allegedly defective toilet unit.

Claimant testified that the incident in question occurred on November 15,1988. He was housed in West House of Menard. He was sitting on the toilet and it broke to the floor causing a serious laceration in his back which resulted in seven sutures. Claimant demonstrated a scar approximately four inches long located 5½ inches to the left of the midline of his back on his left side on the date of his hearing. It was not a keyloid scar and was not discolored. Claimant received medical assistance and stitches approximately one hour after his injury occurred. Claimant contends that he hurt his back although the X rays taken did not reveal any damage to his bones or spine. Claimant feels his back was damaged because he claims to still have trouble with his back on a sporadic basis. Claimant states that he had no trouble with his back before the incident. Claimant contends he has been prescribed muscle relaxers but that he did not take them at the time of the hearing. He further testified that he has been X-rayed several times since the injury on his own

request. Claimant testified that he was advised by the examining physicians that he suffers from scoliosis, a congenital curvature of the spine. Testimony at hearing indicated Claimant's condition had not been diagnosed prior to his incarceration. However, his medical records showed no evidence of any continuing disability attributable to his injury.

Claimant testified at the time of hearing that when he is not in segregation he works out with weights on a regular basis. He further stated he is a pretty good handball player and that the injury to his back of which he complains has not affected his ability to lift weights or play handball.

Claimant contended that approximately a week to 10 days prior to the incident in question, he had notified Respondent's agents that the toilet was defective because it leaked, and Claimant had tried to have it repaired. Claimant testified there was no indication prior to the time that he was using the toilet that it might break or fall. The unit was still leaking at the base of the toilet just prior to the incident in question.

Inmate Summers testified for the Claimant that a week or two weeks prior to the incident, a report had been made to Respondent's agents that the toilet was loose and was leaking from the bottom. Summers testified that he personally talked to Respondent's agents who told Summers, "we will get to it as soon as we can." Summers stated that Respondent's agent never did repair the toilet until after it broke, causing Claimant's injury.

The uncontradicted evidence in this case indicates that Respondent was made aware of the defective toilet at least a week or two prior to Claimant's injury. In *Wassinger v. State* (1988), **41** Ill. Ct. Cl. 68, this Court

addressed a similar problem. This Court held that the plumbing facilities in the cells housing inmates with the Department of Corrections are under the management of Respondent. When an injury has been caused by something under the management of the Respondent, and the injury is such that in the ordinary course of events it would not have happened if Respondent had exercised proper care, the accident itself affords reasonable evidence, in the absence of an explanation, that the accident arose from the Respondent's want of due care. *Childress v. State* (1985), *37* Ill. Ct. Cl. 269.

As in *Wassinger, supra,* it is clear in this case that Claimant brought the defective condition in the porcelain toilet to the notice of Respondent. Respondent was aware of the dangerous condition. ***Burns** v. State* (1982), *35* Ill. Ct. Cl. 782.

There is no question Claimant sustained a severe laceration on his back on account of the negligence of Respondent. Although Claimant complains of lingering back problems, his own testimony belies the fact that the problems have not interfered with his weight lifting or handball activities.

Based upon the foregoing, we hereby award Claimant $1,500 in full and complete satisfaction of his claim.

(No. 89-CC-3674—Claim denied.)

LILY ARLENE HALL, Claimant, *v.* THE STATE OF ILLINOIS, Respondent.

***Opinion filed August 19, 1991.***

***Order filed August 27, 1992.***

FEIRICH, SCHOEN, MAGER & GREEN, for Claimant.

ROLAND W. BURRIS, Attorney General (VERNE DENTINO, Assistant Attorney General, of counsel), for Respondent.

NEGLIGENCE—***duty owed by state to invitees—what necessary to establish breach of duty.*** The State has a duty to use ordinary care to keep its property reasonably safe for the benefit of those who come upon its property as invitees and to warn them of hazardous conditions not readily apparent, and for the Claimant to establish a breach of these duties, she must prove by a preponderance of the evidence that a dangerous condition existed, that the State had actual or constructive notice of the dangerous condition, and that the State's negligence was the proximate cause of the Claimant's injury.

***SAME—fall on grandstand stairway at State Fair—Claimant did not meet burden of proof—claim denied.*** Where the Claimant was injured when she fell down an unlighted stairway while leaving in the middle of a grandstand show at the State Fair, she failed to meet her burden of proving the State's negligence and her claim was denied, since the Claimant offered no testimony as to the existence of a dangerous condition on the stairway which could have been discovered, and produced no evidence of prior accidents or showing who was actually in charge of the grandstand on the date in question, and the Claimant was contributorily negligent in not using the railing to descend the stairs.

## OPINION

JANN, J.

Claimant alleges that she was injured due to the negligence of the State when she fell down an unlighted stairway while leaving the grandstand at the DuQuoin State Fair on August 31, 1988. Claimant seeks damages in the amount of $100,000 for medical expenses and pain and suffering.

On August 31, 1988, Lily Arlene Hall, the Claimant,

and her three sisters attended the gospel sing at the State Fair at DuQuoin. Claimant drove from Carbondale to DuQuoin. She left home between 7:30 p.m. and 8:00 p.m. When she got to the fair, Claimant drove through the gate and parked in the parking lot. Claimant and her sisters then walked into the fairgrounds and went into the grandstand which had a free admission. They went through a double door into a room with a roof over it. They then went up two flights of stairs and sat in an area between sections F and J on Joint Exhibit 1, the seating chart for the grandstand. There were no ushers at the grandstand. When they arrived, the show had begun and the stage was lit up. They came onto the landing and went up approximately 12 rows, and sat down in the grandstand to watch the gospel show. There were no overhead lights on where they were sitting. There had been no intermissions while Claimant watched and overhead lights had never been turned on.

The four sisters stayed for approximately 45 minutes and then the Claimant decided she wanted to leave because her husband was not feeling well. The show was still going on. Only the stage lights were on. The Claimant and her sisters got up to leave and went out single file. The Claimant was third in line. They turned right and walked down and then back to the stairs. Claimant said she could not see the stairs. It was very dark in the stairwell. There were no lights on the stairs and no lights on the end of the seats; however, there was a bannister or railing. Claimant could not see where she stepped. She felt her way down with her feet, trying to feel the next step as she went. The steps did not feel uniform in size or shape. Suddenly Claimant fell full force on her left knee. Her knee made a cracking noise. She had no idea how many steps she had missed. Claimant and her sisters went

down the same stairs they had come up. Claimant could not get up after the fall. Her sisters helped her up and then down the stairs. None of the other sisters fell and the lighting in the stairway was about the same when they left as when they had come in. They went outside and got on a tram. The tram took Claimant to the front gate. Claimant's knee was starting to swell and she was in pain. A woman brought out a lawn chair for her to sit on and two sisters went to find a nurse or someone else to help. The sisters went to the Fair office. The sisters testified that the lady in the office advised them that there was an ambulance on the fairgrounds. The sisters said the lady in the office said it had been the intention to light the stairwells, or words to that effect.

Claimant was taken to Marshall Browning Hospital by ambulance, where she remained for about two hours. A doctor was called in and Claimant was given crutches to use. She had an ambulance bill for $109 and a bill from Marshall Browning Hospital for **$153.** Claimant had pain for several days. She went to see Dr. Hurley, an orthopedic surgeon, on September **6,** 1988. **X** rays showed the knee was fractured. The knee was wrapped in a bandage and later put in a cast. Claimant had the cast on for about six weeks. She was unable to do her household chores. She had pain in her leg for over six weeks. She took prescription pain pills for the pain. After the cast was removed, Claimant wore an immobilizer for three or four weeks. She had physical therapy five or six times. She stopped the physical therapy on her own and did not complete the recommended therapy.

Claimant still has problems with her knee. It aches in cold weather. She cannot walk, garden or swim as much as she used to. Claimant had bills from the Carbondale Clinic related to the injury totaling **$447.** Dr. Hur-

ley's bills totaled $129.76. However, the last time Claimant saw a doctor about the knee was on December 19, 1988. On that date, she told Dr. Hurley she was doing well.

Dr. Philip Hurley testified that he provided care and treatment for Claimant for the injuries she suffered on August 31, 1988. He provided an orthopedic evaluation. Claimant had a nondisplaced oblique fracture of the left kneecap. This means there is a fracture but the bones have not separated. Claimant's knee was put in a cast for one month and she was given pain pills. She also was directed to use crutches. The cast extended from just about the ankle to just below the groin. Dr. Hurley followed the patient until December 19, 1988. On October 6, 1988, as the healing was not complete, Claimant's leg was recasted for three more weeks. On October 27, 1988, there was no tenderness at the kneecap and the fracture was healed. Claimant's knee was placed in an immobilizer and Claimant was prescribed physical therapy. Dr. Hurley said Claimant's progress was very good. On November 14, 1988, her motion was up to 112° of flexion with full extension and there was no swelling, tenderness or damage to the kneecap. Her ligament exam was completely normal as were all tests given. On December 19, 1988, Claimant had a full range of motion and all exams were normal. Claimant did complain of occasional aching and discomfort in her knee after a busy day. Dr. Hurley has not seen the Claimant since December 19,1988.

Dr. Hurley formed the opinion that the injuries will not cause Claimant any disability in the future. It is unlikely she will require any future medical care, treatment or medication. However, the injury could possibly predispose her to arthritis of the knee. This risk is minimal. She should have no problem walking or swimming

with the knee and she should have no further pain.

The State has a duty to use ordinary care to keep its property reasonably safe for the benefit of those who come upon its property as invitees. *(Peters* ***v.*** *State* (1984), 36 Ill. Ct. Cl. 255.) The State has a duty to its invitees to warn them of hazardous conditions not readily apparent. *Nolan* ***v.*** *State* (1983), 36 Ill. Ct. Cl. 194; *Ross v. State* (1971), 27 Ill. Ct. Cl. 104; Kelly ***v.*** *State* (1969), 26 Ill. Ct. Cl. 426.

For the Claimant to establish a breach of the heretofore stated duties, the Claimant must prove by a preponderance of the evidence that a dangerous condition existed, that the State had actual or constructive notice of the dangerous condition, and that the State's negligence was the proximate cause of the Claimant's injury. *Perlman v. State* (1979), 33 Ill. Ct. Cl. 28; *Mackowiak* ***v.*** *State* (1982), 35 Ill. Ct. Cl. 315.

Comparative negligence is to be applied in such cases. *(Peters, supra.)* **A** claimant is held responsible for all normal, obvious and ordinary risks at the time in question. (*Fleischer* ***v.*** *State* (1983), 35 Ill. Ct. Cl. 799; *Duble v. State* (1967), 26 Ill. Ct. Cl. 87.) **A** legal duty requires more than the possibility of occurrence and the State, like any other person, is charged with a duty only when harm is legally foreseeable. The issues of foreseeability and duty involve a myriad of factors, including the magnitude of the risk involved, the burden of requiring the State to guard against the risk, and the consequences of placing such a burden on the State. *Wilson* ***v.*** *State* (1989), 41 Ill. Ct. Cl. 50; ***Owens*** *v. State* (1989), 41 Ill. Ct. Cl. 109.

In this case, all four sisters went up the same stairs without difficulty in the same lighting or lack of lighting. Three of the sisters walked back down the stairs without

incident. Only the Claimant fell. One sister used the railing to hold on to. The Claimant did not recall holding on to the railing before she fell. There was no evidence presented that the State had actual or constructive notice of a dangerous condition. There was no evidence that anyone else had ever had a problem on the stairway. The State is not an insurer of the safety of persons visiting its fairgrounds, but rather such visitors are owed a duty of reasonable care in maintaining the premises. ***(Berger v. State*** (1988), ***40*** Ill. Ct. Cl. 120.) Claimant chose to go down the dark stairway without holding the railing. Joint Exhibit 1 indicated several other exits down lower and closer to the lighted stage. No experts were called to testify about any dangerous condition that could have been discovered. The unknown woman in the office was not called to testify to learn of her position and knowledge or to confirm or deny her alleged statement of an intent to provide lighting in the stairwells of the grandstand. There was no testimony presented to prove who was actually in charge of the grandstand on the evening in question. No pictures of the stairway were presented for the trier of fact to review to see if the stair size, steepness and width were a dangerous condition. *(Simpson* ***v. State*** (1985), 37 Ill. Ct. Cl. 76.) Claimant's failure to use the railing was significant contributory negligence. The Claimant has not met her burden of proof to show Respondent negligent.

Wherefore, it is hereby ordered that this claim is denied.

ORDER

JANN, J.

This cause comes on to be heard on Claimant's motion for rehearing/revision of the Court's order entered

August 19, 1992, denying Claimant's claim for damages for personal injury.

The Court has carefully considered Claimant's petition for rehearing and finds that Claimant failed to establish by a preponderance of the evidence that Respondent breached any duty owed to Claimant. Claimant notes the Court's reference to the application of comparative negligence in such cases and asserts that said reference implies a finding of negligence on the parts of both parties. No such finding was made or implied.

Claimant has taken issue with several findings of fact in the opinion and argues hypotheses and facts not in evidence in attempting to persuade the Court to reconsider its findings. Upon review of the record, the Court affirms its opinion of August 19, 1991.

It is hereby ordered that Claimant's petition for rehearing/revision is hereby denied.

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(No. 90-CC-0990—Claimant awarded $10,251.32.)

VIC ECKMANN and THE BOATMEN'S NATIONAL BANK OF ST. LOUIS, as Executor of the Estate of William Cherrick under Letters of Office Issued August **14,** 1987, Claimants, *v.* THE **STATE** OF ILLINOIS, Respondent.

*Opinionfiled* ***March 4,*** *1993.*

STERLING & KELLEY (HARRY STERLING, of counsel), for Claimants.

ROLAND W. BURRIS, Attorney General (CAROL BARLOW, Assistant Attorney General, of counsel), for Kespondent.

*NEGLIGENCE—property damage—one who alters natural flow of water is liable for damage caused on adjacent property.* One who negligently alters the natural flow of water on the property of an adjacent landowner, and thereby causes damages, is liable to the adjacent landowner.

*SAME—flooding of Claimant's farmland—State was negligent in construction of highway and cleaning of ditch—damages awarded.* In the Claimant's second action for damages against the State as a result of flooding which occurred on his farmland, the State's negligent construction of a highway and cleaning of a ditch which resulted in an increased flow of water to the Claimant's property had already been established in the prior claim, and was again responsible for subsequent flooding and crop damage on the Claimant's property, and the Claimant was awarded **$10,251.32** in damages for lost crops and monies expended by the Claimant in attempting to mitigate his damages.

## OPINION

PATCHETT, J.

Claimant once again brings an action for damages as a result of flooding on his farmland. He claims he suffered property and crop damage as a direct and proximate result of the negligence committed by the State of Illinois and Department of Transportation.

In April 1986, and again in the fall of 1986, the Illinois Department of Transportation acquired a temporary construction easement to clean out part of the Schneider Ditch and construct Interstate 255. The ditch runs west from its origin under Interstate 255, under a road called Black Lane, and next to the Claimant's land, where it takes a turn south, and finally drains into Brushy Lake. After completion of the construction, and the cleaning of part of the ditch, the flow of water through the ditch increased.

Claimant is an experienced farmer who operates his own irrigation business. Claimant and his father warned representatives of the Department of Transportation that their property would be flooded due to the increased velocity of water running through the ditch if a pumping

station was not installed where the Schneider Ditch curves from west to south. The Department did not install the pump, and consequently the Claimant's 40-acre tract of farmland was flooded in October 1986, and again in July 1987.

Claimant brought suit for damages suffered in the 1986 and 1987 floods in this Court. This Court held that the State was negligent in its construction of Interstate 255, and the accompanying cleaning of Schneider Ditch. The one who negligently alters the natural flow of water on the property of an adjacent landowner, and thereby causes damages, is liable to the adjacent landowner. ***(Mount v. State*** (1977), **31** Ill. Ct. Cl. 299; ***Branding v. State*** (1977), **31** Ill. Ct. Cl. **455.)** In awarding damages to the Claimant in the former case, the Court considered contributory negligence. It was alleged that the Claimant failed to clean out the five-foot diameter culvert under his farmer's field road prior to the floods. Accordingly, the Court reduced the actual damages in the prior case **as** a result of the contributory negligence.

Once again, the Claimant has suffered damages as a result of the State's negligence in its construction of Interstate 255 and the cleaning of the ditch. The Claimant's land was flooded again in March 1989. **Prior** to that flooding, the Court had already determined that the State was negligent in its construction of the interstate and the cleaning of the ditch.

The Claimant has presented adequate and substantial proof that, as a result of the flooding on this occasion, he has suffered a reduced yield of **59.91** bushels of wheat per acre on 40 acres at a price of **$3.80** per bushel. This computes to a total monetary loss of **$9,106.32.** Claimant additionally expended money in pumping water off the

40-acre tract in an effort to mitigate the damages. He used *250* gallons of diesel fuel at a cost of 74 cents a gallon, 48 hours of labor at $7.50 an hour, and rented a water pump for three days at $200 per day. The total pumping cost was $1,145.

Claimant's damages were reduced in the prior case before this Court because of his failure to clean out a culvert underneath his farm road. There was no evidence at this hearing that the culvert contributed to the flooding. In fact, the only evidence brought forth at the hearing before the commissioner of this Court was that the culvert was not the problem. Therefore, the Claimant's contributory negligence in this case will be **zero.** The Claimant is awarded the sum of $10,251.32.

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(No. 90-CC-1939—Claim denied.)

DAVID STARKS, SR., Claimant, *v.* THE STATE OF ILLINOIS, Respondent.

*Opinion filed* ***November*** *9, 1992*

DAVID STARKS, SR., *pro se*, for Claimant.

ROLAND W. BURRIS, Attorney General ("KAY" CHRISTINE M. GIACOMINI, Assistant Attorney General, of counsel), for Respondent.

PRISONERS AND INMATES—*negligence—State's duty and Claimant's burden of proof:* To prevail on a negligence claim, an inmate must prove by a preponderance of the evidence that the State had a duty to protect the Claimant from harm, that the State negligently breached that duty, and that the negligence was the proximate cause of the Claimant's injury, and while the State owes a duty of protection to its prisoners and must exercise reasonable care toward them as their known conditions may require, the State is not an insurer of the safety of prisoners under its care.

SAME—*back injury—inmate failed to prove State's negligence.* There

was no merit to an inmate's negligence claim alleging that the State was responsible for an injury to his back which occurred while the inmate was lifting weights, since the inmate failed to produce any proof that the State was negligent in not providing supervision in the prison weight room, or that a lack of supervision caused the injury.

SAME—*State's duty to provide proper health treatment for inmates.* The State of Illinois has a duty to provide proper health treatment for inmates in its custody and must exercise ordinary and reasonable care for the inmates' health and life under the circumstances of the particular case, and whether or not the State has failed to act in accordance with the standard of ordinary and reasonable care for the preservation of a prisoner's health is a question of fact.

*SAME—medical malpractice claim—inmate produced* no *expert testimony regarding standard of care-claim denied.* Where the Claimant filed a medical malpractice claim against the State alleging that he was refused medical attention and provided with inadequate medical care after injuring his back while incarcerated in the Illinois Department of Corrections, the claim was denied, since the Claimant presented no expert medical testimony to establish the relevant standard of care and a deviation from that standard which was the proximate cause of his injuries.

## OPINION

JANN, J.

The Claimant filed his complaint in the Court of Claims on January *23,* 1990, seeking $60,000 in damages from the State for injuries he received and for medical malpractice while an inmate in the Illinois Department of Corrections.

A trial was held before the commissioner assigned to the case on August 29, 1991. The evidence consists of the departmental report and the report of proceedings which was filed on September 17,1991. The Claimant has failed to file a brief within the time limit set by rule, and the State has filed no brief. The Court will, however, thoroughly consider this claim without benefit of briefs and arguments.

The Court also notes that during the course of the trial, Claimant was granted **30** days to copy certain letters

and file them as evidence in the case. No such letters were ever filed by the Claimant in this cause to date, and therefore said letters will not be considered as evidence by the Court based on Claimant's failure to file said letters.

## THE FACTS

Claimant testified that sometime in 1987 or 1988, he injured his back while at the Logan Correctional Center. He further claimed that, in 1989, while at Stateville, he was refused medical attention when he injured his back again. He claims he did see a doctor who gave him a cane but no medication. A year later he was sent to the prison in Dandle. The pain was worse and he was still seeking medical attention. Defendant testified that the State owes him $50,000 for injuries to his back because it is the State's job to protect him and give him medical assistance.

The injury is to Claimant's lower back. He has requested medical attention but he claims none has been forthcoming. The injury itself, according to Claimant's testimony, occurred at the prison in Logan while he was working out after boxing. He claims he was using weights and injured his back. He claims the State should have provided weight instructors. He was lifting 280 pounds.

Claimant also makes a claim against the State for medical malpractice because he has been refused medical treatment and is still being so refused. He claims $10,000 for bodily pain and mental anguish and suffering. He appeared in court for trial in chains and complained the chains caused pain.

Claimant testified he had nothing further to say about his injuries or his damages, and that they were

"self-explanatory." On cross-examination, Claimant did testify that he would still play basketball and box if he was allowed to leave his cell. Claimant also admits that no one from the Department of Corrections intentionally injured his back.

Dr. George Kuria testified for the State. Dr. Kuria is a licensed physician who provided medical care to Claimant, Dr. Kuria saw Claimant on December 1, 1989. Claimant, on that date, complained of back pain for three weeks after playing basketball. Dr. Kuria diagnosed non-serious muscular back pain. On May 18, 1990, Claimant was again seen by the doctor for knee pain. No mention of back pain was made by Claimant on that date.

In initially reviewing Claimant's medical records, Dr. Kuria found no complaints by Claimant for back pain while Claimant was at Stateville. There was no record of back pain for 1987-88 for Claimant in the medical records according to Dr. Kuria. The only injuries complained of by Claimant in the medical records while Claimant was at Logan were for a twisted left ankle on June 21, 1988,. while playing basketball and for something being in Claimant's eye on August 25,1988. In December of 1989, Dr. Kuria prescribed heat to back, Tylenol for pain, and back exercises for Claimant.

On September 11,1990, Claimant complained of back pain. He also complained of back pain on February 20, 1991, on March 7, 1991, and on April 25, 1991. He was seen by doctors on all three occasions according to the medical records. On the last occasion, the records indicate Claimant refused to allow the doctor to examine him. On April 29, 1991, an X-ray report indicated that Claimant had a normal lumbar spine and had normal X rays of the back. The doctor reviewed the records fur-

ther and found that on January 14, 1988, the Claimant complained of back pain from lifting weights. He was given Motrin for pain. This note corroborated Claimant's testimony and showed the doctor erred in his earlier testimony.

The departmental report's medical progress notes indicate that on January 14,1988, "received call from officer that inmate complained of back pain. When talked with inmate, he stated, 'I lifted a lot of weight last week and my back still hurts. I can't hardly move.'" The Claimant was advised to come to sick call on January 15, 1989. He was prescribed Tylenol as needed and warm, moist heat. The medical notes further indicated that Claimant was lifting 200 pounds and his back hurt. He was seen by a nurse and a doctor was called on January 14, 1988. The doctor prescribed Motrin four times a day for three days. A doctor visited Claimant on March 24, 1989, in the segregational unit, and Claimant made "no requests." On April 12, 1989, an intake screening was done for Claimant at Stateville. He made no medical complaints at that screening and had no physical limitations. The medical records indicate on November 27, 1989, Claimant complained of back pain and wanted to see the doctor because he hurt his back "2 weeks ago." He had apparently hurt his back playing basketball.

While the records indicate that Claimant was seen by nurses on many, many occasions, no further mention was made of back pain by Claimant in the medical records.

## The Law

Claimant presents two bases of recovery for the Court to consider. His first claim appears to be that some-

how the State is responsible for injuries to his back. The second claim is a malpractice claim for being refused medical attention.

To prevail on his first claim, the Claimant must prove by a preponderance of the evidence that the State had a duty to protect Claimant from harm, that the State negligently breached that duty, and that the negligence was the proximate cause of Claimant's injury, (*Hoekstra v. State* (1985), *38* Ill. Ct. Cl. 156.) The State owes a duty to prisoners, that being a duty of protection, and the State must exercise reasonable care toward the prisoners as the prisoners known conditions may require. However, the State is not an insurer of the safety of prisoners under its care. *Komeshak v. State* (1985), *38* Ill. Ct. Cl. 100; *Reynolds v. State* (1983), *35* Ill. Ct. Cl. 647.

In this case, the Claimant has failed to meet his burden of proof. The evidence indicates the Claimant may have hurt his back while lifting weights. There is absolutely no proof of any negligence on the part of the State in not providing supervision in the weight room or that a lack of supervision caused the injury. *(Cooley v. State* (1986), *38* Ill. Ct. Cl. 223.) The Claimant has failed to produce any evidence to support his claim. While the case may be self-explanatory to this Claimant, it is not self-explanatory to this Court absent any proof. Claimant was given a full and fair opportunity to present his claim and he failed to meet his burden of proof.

The second claim for medical malpractice also fails for want of proof. The State of Illinois has a duty to provide proper health treatment for inmates in the custody of the State, and the State must exercise ordinary and reasonable care for the inmates' health and life under the circumstances of the particular case. *(Peters v. State*

(1987), 40 Ill. Ct. Cl. 152.) Whether or not the State has failed to act in accordance with the standard of ordinary and reasonable care for the preservation of a prisoner's health is a question of fact. (*Desort v. Village of Hinsdale* (1976), 35 Ill. App. 3d 703.) In this case, no competent evidence was presented to indicate that Claimant was refused medical attention or that Claimant was provided inadequate medical care other than Claimant's own conclusions and complaints. Claimant presented no medical expert testimony to substantiate his claim. This Court may not conclude on its own what is or is not appropriate medical care under the circumstances of this case without the aid of expert testimony. (*Wood v. State* (1985), **38** Ill. Ct. Cl. 9; *Kennard v. State* (1986), 38 Ill. Ct. Cl. 268.) In fact, the medical progress notes in the departmental report contradict Claimant and show that he was seen on numerous occasions by doctors and nurses for a litany of conditions and that he did receive treatment of some kind on most occasions. It is, however, the Claimant's burden of proof to establish the standard of care and that a deviation from the standard of care was a proximate cause of his injuries. Claimant has failed to present such expert testimony and has therefore failed to meet his burden of proof and his claim must be denied. *Stanley v. State* (1986), 39 Ill. Ct. Cl. 107.

Wherefore, Claimant's claim is hereby denied and this cause of action is dismissed with prejudice.

(No. 90-CC-2182—Claimant awarded $4,500.)

DE EDWARD LANG, Claimant, *v.* THE STATE OF ILLINOIS, Respondent.

*Opinion filed August 31, 1992.*

MITCHELL & ALLEN, for Claimant.

ROLAND W. BURRIS, Attorney General (PAUL CARLSON, Assistant Attorney General, of counsel), for Respondent.

NEGLIGENCE—*motorist injured in collision with state Police vehicle at intersection— olicemn failed to yield right-of-way—award granted.* In a negligence claim filed by a motorist who was injured when his vehicle collided with a State Trooper's vehicle at an intersection, the evidence showed that the State Trooper, who had gone to the intersection to prevent other vehicles from making a prohibited left-hand turn in a northerly direction, violated the prohibition himself and in *so* doing failed to yield the right-of-way to tlie Claimant's vehicle, and tlie Claimant was awarded a total of $4,500 for personal injuries and property damage as a result of the State's negligence.

## OPINION

JANN, J.

On March 12, 1988, at approximately 2:30 p.m., there occurred a motor vehicle accident at the intersection of 25th Street and Martin Luther King Drive in the City of Chicago. The accident occurred between vehicles operated by State Police Officer Kyron St. Clair and De Edward Lang, the Claimant.

The exit off Interstate 55, also known as the Stevenson Expressway, to Martin Luther King Drive feeds into 25th Street and during this time frame was the site of construction because of work on the Dan Ryan and Stevenson Expressways in the City of Chicago. According to the evidence presented, Officer St. Clair and another officer riding as a passenger in St. Clair's vehicle had just exited the Stevenson Expressway and were attempting to

park their vehicle in a safety zone area of Martin Luther King Drive. Their purpose was to observe vehicles coming off the Stevenson Expressway and onto 25th Street. Specifically, the State Police were there to prevent people from making a left-hand turn off 25th Street and onto Martin Luther King Drive to proceed northbound. There was clearly posted a "No Left Turn" sign at that location and there were barricades erected in such a way as to funnel the turning traffic in a southerly direction on Martin Luther King Drive. Officer St. Clair, called as a witness by the Claimant, admitted that he violated the very same traffic law which he was attempting to enforce by his presence at that location. The State Police had knowledge that a number of accidents had occurred in that location by virtue of the fact that motorists were exiting 25th Street and making a northbound turn onto Martin Luther King Drive. For whatever reason, this maneuver was dangerous and had caused a number of accidents at that intersection. Officer St. Clair was sent to the location to prevent that problem and ended up being a statistic of the intersection because he violated the no left turn sign.

The intersection is controlled by traffic control devices and there is an issue of fact as to the color of the lights for the respective parties. The Claimant, a Chicago police officer, claims he had the right-of-way and had the green light as he proceeded southbound on Martin Luther King Drive. Officer St. Clair testified that he thought he had the green light at the time he proceeded across Martin Luther King Drive to make the illegal turn. In addition, Trooper Joiner, the passenger in St. Clair's vehicle, testified that while he did not recall how the accident happened, he did believe the light was green for the vehicle of the State trooper. In addition, the State called Sgt. George Michael, the supervisor on duty at the time

who investigated the accident. He noted the skid marks and calculated the speed of the Claimant's vehicle as being in excess of the speed limit. However, Sgt. Michael also indicated that Officer St. Clair had told him St. Clair was making a right-hand turn to go south on Martin Luther King Drive. Physical evidence presented included certain photographs of the location. Because of the construction and the configuration of the intersection, it was difficult for either party to see the vehicle with which it would eventually come into contact until immediately before the impact. There were cement walls approximately six- to seven-feet high running in the southbound lanes on Martin Luther King Drive which prevented both the Claimant and the occupants of the State vehicle from seeing each other. It is the opinion of the Court that the State Police vehicle pulled into the intersection because the trooper could not see any vehicles coming in the southerly direction and did so against the traffic light, therefore failing to yield the right-of-way to the Claimant's vehicle.

Claimant introduced evidence of property damage to his vehicle of $400 which was paid by Claimant. Claimant received medical care as a result of his neck and back injuries incurred in the accident. Paid medical bills in the amount of **$1,428** were admitted into evidence. Claimant also lost two weeks pay in the amount of $1,350. Claimant continued to have headaches and pain associated with his injuries for about one year following the accident.

Wherefore, Claimant is awarded $4,500 in full satisfaction of this claim.

(No. 90-CC-2258—Claim denied.)

CLEVELAND WARE, Claimant, *v.* THE STATE OF ILLINOIS, Respondent.

***Opinion filed March 30, 1993.***

CLEVELAND WARE, *pro se*, for Claimant.

ROLAND W. BURRIS, Attorney General (VERNE E. DENTINO, Assistant Attorney General, of counsel), for Respondent.

PRISONERS AND INMATES—*claim for lost or misplaced property denied.* An inmate's claim for the value of a personal fan which was allegedly lost or misplaced by prison employees who packed the inmate's property when he was taken from his prison job site and transferred to the segregation unit was denied, where the State's evidence established that the inmate did not have a fan in his possession when his property was inventoried shortly before the incident in question, and the Claimant offered no proof to indicate that he had acquired a fan between the time of that inventory and the time when the fan was allegedly lost or misplaced by the State.

## OPINION

PATCHETT, J.

Claimant is a resident of the Illinois Department of Corrections and seeks judgment against the Department in the sum of $28.90 for the loss of a personal fan. He claims the fan was lost or misplaced by agents at Menard Correctional Center.

On March 1, 1988, Claimant was walked from his jobsite to the segregation unit. He was not given an opportunity to pack his property. He claims that he was informed that the agents of the Department went to his cell, took his property out and left it at the sergeant's desk. He also claims that he was informed that his property was taken to the personal property officer. That officer later denied ever receiving the property in question. Claimant did in fact have a cellmate at the time who was in the cell when the Claimant was placed in segregation.

After being released from segregation, Claimant was placed in a different cell with a new cellmate.

Correctional Officer Martin testified that although he didn't actually pack Claimant's property, he remembered it being packed by Officer Roth. Officer Roth testified that he was employed at Menard in March of 1988, and recalled going to the Claimant's cell and packing property. He did not recall there being a fan among the personal effects. He claimed that he would have to see a property slip in order to refresh his memory.

When personal property of inmates is packed, property slips are completed by the officers doing the packing. In addition to the inmate's copy and guards copy, the personal property officer receives a copy. Officer Roth completed the slip in question. He testified, however, that he could not remember if he delivered the slip to Claimant, or turned it over to some other officer to deliver to the Claimant. Officer Roth did not know whether Claimant received a copy of the property slip. He also could not remember if Claimant's property included a fan.

Officer John Guthman testified that in March 1988, he served as a personal property officer at Menard Correctional Center. He could not determine whether a property slip had been completed covering the items removed from Claimant's cell. He did identify a personal property receipt form signed by Claimant reciting that he had received his property after being returned to Menard from another institution on February 18, 1988. At that time, there was no indication on the property receipt that Claimant had a fan in his possession.

Officer Guthman did, however, identify a document on which the Claimant reported that the fan in question had in fact been stolen from him on June 8,1989.

This hearing was held before a commissioner of this Court who had an opportunity to observe the witnesses during testimony. It is the opinion of the commissioner that the Claimant's testimony was not credible. Furthermore, the Department's evidence established that Claimant did not have a fan shortly before the incident in question. Claimant offered no evidence to prove that he had acquired a fan in the interim between the time that his personal property was inventoried upon his return to the prison on February 18, 1988, and the time he claims that the fan was lost as a result of actions by agents of the Department.

We therefore deny this claim.

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(No. 90-CC-2489—Claimant awarded $2,045.)

ROBERT DERENSKI, Claimant, *v.* THE STATE OF ILLINOIS, Respondent.

*Opinion filed July 31,* 1992.

ABRAMS & CHAPMAN, for Claimant.

ROLAND W. BURRIS, Attorney General (STEVEN SCHMALL, Assistant Attorney General, of counsel), for Respondent.

CONTRACTS—*rules of construction* Any ambiguities in a contract should be construed against the party preparing the contract and, while the specific provisions of a contract will prevail over the general provisions thereof, the language of a contract is not controlling in determining the parties' agreement when other circumstances are also relevant in determining the agreement.

SAME—*contract for rental of boat slip—State breached agreement by failing to perform—Claimant awarded damages.* In a breach of contract action where, due to construction delays not contemplated by the parties, the Department of Conservation failed to perform its obligations under a con-

tract with the Claimant for the rental of a marina boat slip, the Claimant was entitled to a refund of **$2,045** of the **$2,245** which he had paid to the Department for the slip rental since, although the contract contained a forfeiture provision for the **$200** nonrefundable deposit which accompanied the Claimant's application, neither the forfeiture clause nor the nonrefundability provisions were applicable, upon the State's breach of the agreement, with regard to the slip payments.

## OPINION

FREDERICK, J.

Claimant in his complaint seeks the sum of $2,245 from the State for breach of contract. Claimant alleges that he entered into a contract with the Department of Conservation for the rental of a boat slip at North Point Marina for the 1989 boating season. Respondent was unable to furnish the slip at the time agreed upon due to what the State has claimed to be an act of God. The Department of Conservation has refused to refund to Claimant the $2,245 deposit made by Claimant for the boat slip.

The case was tried by Commissioner Weinberg.

### The Facts

Claimant, Robert Derenski, owned a 40-foot Viking Sport Fisherman boat. He had docked the boat at the Bell Harbor Marina in Racine, Wisconsin, from the time he purchased the boat. In **1988,** he received fliers regarding a proposed marina to be called North Point Marina. He also saw an advertisement in the paper about the marina. North Point Marina **is** in Illinois, just south of the Wisconsin border. Claimant investigated the proposed marina because it was closer to his home in Glenview, Illinois, than was the Racine, Wisconsin, dockage. Claimant contacted the North Point Marina sales office in 1988 and obtained a brochure. The brochure in its very first

sentence says "North Point Marina is ready." The brochure in *two* separate statements goes on to say the marina would open in April of **1989.**

Claimant made an application for a slip in September of **1988.** When he sent in his application, he requested a 45-foot slip and **also** sent in a **$200** check for the nonrefundable deposit which had to accompany the application, according to the application form. A short time later Claimant received a letter from the Department of Conservation acknowledging his application and deposit. Claimant's slip assignment was noted on the receipt copy of his application which was returned to Claimant by the Department of Conservation. The slip assigned was slip No. **39.** In December of **1988,** Claimant made a second application **as** Claimant thought he would be selling his 45-foot boat and obtaining a larger boat. The second application was for a 55-foot slip and cancelled the first slip. The new slip was slip No. **17.**

In December of **1988,** Claimant received another letter from the Department. This letter indicated that the project was "on schedule" and an opening of April **15, 1989,** was anticipated. The letter **also** indicated that 50% of the annual rent less the **$200** deposit was due by March **1,1989.**

On January **16, 1989,** the Claimant signed the Illinois Department of Conservation Harbor Occupancy Agreement for North Point Marina. The Department approved the agreement on March **2, 1989.** The agreement signed by the parties fails to indicate the year the rental is for and fails to state the total rental for the slip. The agreement does state that one-half payment **for** vessel accommodations must be remitted by March **1.** If no payment is received by the State by March **1,** the agree-

ment becomes null and void and all deposits are forfeited to the State. A second payment of one-fourth of the actual fee is to be paid by May 1 and a final payment of one-fourth the total fee is to be paid by July 1. The agreement then states "Slip payments are not refundable." The agreement also adopts the Department of Conservation Administrative Rules found in title 17 of the Illinois Administrative Code. Claimant was required to pay the initial $200 deposit, $1,650 prior to March 1, 1989, $560 by May 1, 1989, and $560 by July 1, 1989, pursuant to the agreement.

On or about March 15, 1989, Claimant received a letter from the Department that indicated the February freeze had delayed construction. The letter indicated the commercial basin would be open by April 15, with the recreational basin open soon thereafter. On or about April 3, 1989, Claimant received another letter from the Department of Conservation. This correspondence indicated that continuous basin ice conditions in February and March prevented the installation of docks in the marina and that the project was over a month behind schedule. The Department indicated a May 1989 opening for the manna for all but commercial boats. Noncommercial boats such as Claimant's were further notified that slips would open after May 1, 1989, as docks were installed. However, services might not be available and boats may be given temporary slip assignments until dock installation was complete.

The marina indicated that it was understood that these events would cause people to adjust their plans. In recognition of the inconvenience, everyone in the recreational basin received an additional 10% discount on all slips. Claimant was offered a temporary slip in the commercial basin but Claimant found this unacceptable. The

commercial fishermen come in at 4:00 a.m. and make noise, which would have been unacceptable for his family.

Claimant's slip was in the recreational basin. His slip was not ready on May 1, 1989. The manna indicated the slip would be ready shortly but it was not made ready until some time in June, with services on the dock available some time thereafter. Because of the delay, Claimant obligated himself for another year's dockage at the Bell Harbor Marina in Wisconsin for the summer of 1989 and paid that manna $2,800. Claimant did in fact pay the Illinois Department of Conservation $200 on September 10, 1989, $1,650 on March 1, 1989, and $395 on May 2, 1989, for a total of $2,245. Claimant requested the Department return to him the $2,245. The Department refused to refund the Claimant's payments but offered to credit $1,850 on dockage for the 1990 boating season for a slip of Claimant's choice, depending on boat length and availability. Claimant declined the manna's offer.

The Law

This is a case of contract interpretation. The State prepared the contract at issue and therefore any ambiguities in the contract should be construed against the party preparing the contract. The specific provisions of the contract will prevail over the general provisions of the contract. (*Kurson, Inc. v. State* (1975), 31 Ill. Ct. Cl. 78.) When the brochures were published, when the Claimant's applications were made, and when the agreement was signed, neither party contemplated that the boat slip would not be available and that construction would be delayed. (*Wieboldt Stores, Inc. v. State* (1976), 31 Ill. Ct. Cl. 336.) It is undisputed that the boat slip that had been assigned to Claimant was not ready for use on April 1,

1989, and was not ready until late June. For whatever reason, the State did not perform according to the understanding of the parties. The State raises an "act of God defense. (*Barry v. State* (1965), 25 Ill. Ct. Cl. 121.) However, there is no proof before this Court as to whether or not ice flows were taken into account in the State's construction schedule. For an "act of God defense to succeed, the State must prove that the State was completely free from fault. In the instant case, the State offered no proof as to this issue of whether the State had considered ice problems in its construction schedule.

The State's offer to apply the 1989 monies paid by Claimant to the 1990 boat slip fees indicates the State knew it had not performed the 1989 contract. The State's position is that the language in the agreement stating that slip fees are not refundable is the bar to refunding the money to Claimant. However, the situation that arose (the slips being unavailable) was not contemplated by the Respondent. This Court has long held that the language of a contract is not controlling in determining the parties' agreement when other circumstances are also relevant in determining the agreement. *Child Development Centers, Inc. v. State* (1984), 36 Ill. Ct. Cl. 138.

It is the finding of the Court that the nonrefundability of the slip fees clause only contemplated the situation where the slips were in existence and the Respondent attempted to back out of the agreement. Any other interpretation would be unconscionable and could even lead to situations where the State could lease the same slip to any number of boats and refuse to refund any fees.

A review of the exhibits also shows that an ambiguity exists in the nonrefundability clause. (*McDonnell-Douglas Automation Co. v. State* (1983), 31 Ill. Ct. Cl. 47.) The

application form prepared by the Department states that "A $200.00 non-refundable deposit must accompany the application." The contract prepared by the Department states in part, "If no payment has been received by said date (referring to the March 1 payment), this agreement will be null and void, and any deposits paid shall be forfeited to the Department of Conservation ' ' '." After the paragraph on forfeiture, a new paragraph with a single sentence states, "Slip payments are not refundable." The contract does not state that slip payments are forfeited to the State as are deposits. The Claimant did make the March 1 payment. This ambiguity must be interpreted adversely to the party drafting the contract and no forfeiture is called for under the facts of this case.

A review of 17 Illinois Administrative Code, ch. 1, sec. 220.10 *et seq.*, which were incorporated into the agreement, indicates the slips were to be generally available from April 1 to October 31. The Code also indicates only the $200 deposit is nonrefundable. (17 Ill. Adm. Code, sec. 220.60(b) (2).) The only other forfeiture provisions in the Code under section 220.30(a) (6) and section 220.30(a) (10) (A) have no factual relation to this case, as Claimant was willing to accept the slip which was first offered to him and Claimant did comply with the provisions of his permit and pay his slip fees.

The State breached the agreement by failing to provide the Claimant with the boat slip he had contracted for and an award should be made because of the State's failure to perform the obligations of the contract. *Duffy Co. v. State* (1981), 34 Ill. Ct. Cl. 69.

Claimant paid $2,245 for a boat slip he did not receive pursuant to the agreement of the parties. The $200 deposit was nonrefundable. For the foregoing rea-

sons, Claimant is awarded the sum of $2,045.

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(No. 90-CC-2698—Claim dismissed.)

DIMAS GUZMAN, Claimant, *v.* THE STATE OF ILLINOIS, Respondent.

*Order filed July 13, 1992.*

DIMAS GUZMAN, *pro se*, for Claimant.

ROLAND W. BURRIS, Attorney General (STEVEN SCHMALL, Assistant Attorney General, of counsel), for Respondent.

***JURISDICTION—jurisdiction to review final administrative decisions is vested in circuit court.*** Section 3—104 of the Code of Civil Procedure provides that jurisdiction to review final administrative decisions is vested in the circuit court.

***SAME—employment—claim seeking to recover amount of unemployment insurance warrant issued by State dismissed for lack of jurisdiction.*** In a claim seeking to recover the amount of an unemployment insurance warrant issued by the Illinois Department of Employment Security, where the claims adjudicator for the Department's Division of Benefit Payment Control denied reissuance of the warrant after an administrative hearing, the Court of Claims was without jurisdiction to review the decision and the claim was dismissed notwithstanding an agreement by the parties that an aggrieved individual should proceed in the Court of Claims, since jurisdiction over the matter was vested in the circuit court and could not be altered by the parties' agreement.

ORDER

MONTANA, C.J.

This cause comes on to be heard on the Respondent's motion to dismiss, due notice having been given, no objection having been filed, and the Court being advised, finds:

Claimant filed this claim seeking to recover the

amount of an unemployment insurance warrant issued by the Illinois Department of Employment Security. The Division of Benefit Payment Control of the Department of Employment Security holds administrative hearings to determine whether a warrant should be reissued. The claims adjudicator denied reissuance of the warrant.

Section 3—104 of the Code of Civil Procedure (Ill. Rev. Stat. 1987, ch. 110, par. 3—104) states that jurisdiction to review final administrative decisions is vested in the circuit court. The fact that the review of the decision of the Division of Benefit Payment Control is provided through administrative review in the circuit court prevents the Court of Claims from assuming jurisdiction over claims such as the instant one. ***Rivera v. State*** (1981), ***35*** Ill. Ct. Cl. ***375; Moore v. State*** (1980), **34** Ill. Ct. Cl. 108; ***Anaya v. State*** (1980), **34** Ill. Ct. Cl. 161.

We further find that Respondent's counsel learned that, notwithstanding and unaware of the above Court of Claims decision, attorneys for the Legal Assistance Foundation of Chicago and the Department of Employment Security entered into a consent decree before Federal Judge Prentice Marshall in a case entitled ***Burns.*** As part of such decree, the parties agreed to add language to Benefit Payment Control's written administrative decisions that suggested that a person aggrieved by the decision should proceed in the Court of Claims. Respondent's counsel informed both the Legal Assistance Foundation and the Illinois Department of Employment Security of the jurisdictional problem of which the signers of the consent decree were unaware. The Department of Employment Security is attempting to resolve this problem by administratively reissuing or rehearing those pending cases, such as the instant one, where review was erroneously sought in the Court of Claims, so that claimants

will have enough time to seek review in the circuit court.

In the motion at bar, Respondent seeks dismissal without prejudice and with leave to file if the Benefit Control Division of the Department of Employment Security does not reissue its administrative decision. Respondent does not indicate how the Court should proceed with the case should it be dismissed and then refiled. Jurisdiction cannot be vested with a court solely based on agreement of the parties and Respondent does not suggest the cited cases are wrong.

Wherefore, it is hereby ordered that this claim be, and hereby is, dismissed for lack of jurisdiction and without leave to refile.

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(No. 90-CC-3227—Claim dismissed.)

*In re* APPLICATION OF JANET M. LUCE, Claimant.

*Opinionfiled November 19, 1991.*
*Orderfiled May 13,1993.*

MARK A. PAZZANELLA, LTD., for Claimant.

ROLAND W. BURRIS, Attorney General (ROBERT J. SKLAMBERG, Assistant Attorney General, of counsel), for Respondent.

POLICE AND FIREMEN—*requirements for recovery under Law Enforcement Officers and Firemen Compensation Act—death must occur within one year of injury.* For an award to be granted pursuant to the Law Enforcement Officers and Firemen Compensation Act, it must be shown that the officer was killed in the line of duty, which the Act defines as losing one's life as a result of injury received in the active performance of duties as a law enforcement officer if the death occurs within one year from the date the injury was received and if the injury arose from violence or other accidental cause.

SAME—*police officer contaminated by radiation during training seminar—death did not occur within one year of injury—claim dismissed.* Where

a police officer suffered radiation contamination in 1980 while participating in a special police training seminar, then in 1988 discovered that he had cancer, and died in 1989, a claim by the decedent's surviving widow seeking compensation under the Law Enforcement Officers and Firemen Compensation Act was dismissed, since the officer's death did not occur within one year from the date the injury was received.

OPINION,

MONTANA, C.J.

This claim is before the Court by reason of the death of William J. Luce, who was a police officer with the City of Chicago Police Department. The decedent's surviving spouse, Janet M. Luce, seeks compensation pursuant to the terms and provisions of the Law Enforcement Officers and Firemen Compensation Act (Ill. Rev. Stat. 1989, ch. 48, par. 281 *et seq.*), hereinafter referred to as the Act.

The Court has carefully considered the claim for death benefits submitted by the Claimant, together with the written statement of Officer Luce's supervising officer and documentation submitted therewith, the medical examiner's certificate of death, and the report of the Attorney General.

The record reveals that Officer Luce allegedly suffered radiation contamination while participating in a special Chicago police training seminar at Argonne National Laboratory on August 27, 1980. The participants in the seminar were testing nightvision rifle sights which contained a radioactive isotope called Promethium 147. The capsule containing the isotope apparently broke in one of the sights, directly exposing a number of the testers, including Officer Luce, to the radiation. Officer Luce died almost nine years later, on August 14, 1989. The medical examiner's certificate of death indicates that Officer Luce was pronounced dead on August 14, 1989, at Michael Keese Hospital in Chicago. The cause of death is

listed as metastatic parotid carcinoma.

For an award to be granted pursuant to the Act it must be shown that the officer was killed in the line of duty as defined in the Act. Section 2(e) of the Act provides, in relevant part, that

"'killed in the line of duty' means losing one's life as a result of injury received in the active performance of duties as a law enforcement officer * * * if the death occurs within one year from the date the injury was received * * *."

The record before this Court indicates that Officer Luce allegedly suffered his injury on August 27, 1980. His death did not occur until almost nine years later, on August 14, 1989. Since section 2(e) of the Act requires that the death must occur within one year from the date the injury was received for an award to be granted, we have no alternative but to deny this claim.

Based on the foregoing, it is hereby ordered that this claim be, and hereby is, denied.

ORDER

**FREDERICK, J.**

This cause coming on for hearing on Claimant's petition for rehearing, and the Court having considered the arguments of counsel, and the Court being fully advised in the premises,

Wherefore, the Court finds:

1. That the Claimant filed her claim for death benefits under the Law Enforcement Officers, Civil Defense Workers, Civil Air Patrol Members, Paramedics and Firemen Compensation Act on May 31, 1990.

2. The Attorney General filed his report on July 10, 1990, and made no recommendation in this matter.

*3.* This Court entered its opinion denying the claim on November 19,1991.

**4.** Claimant filed her petition for rehearing on December 13,1991.

*5.* Oral arguments were held on the petition before the Court on March 23,1992.

6. That the Claimant's decedent was allegedly injured on August 27, 1980. The record reveals that Officer Luce allegedly suffered radiation contamination while participating in a special Chicago police training seminar at Argonne National Laboratory. The participants in the seminar were testing nightvision rifle sights which contained a radioactive isotope. The capsule containing the isotope apparently broke in one of the sights, directly exposing Officer Luce to radiation.

7. Officer Luce died on August **14,** 1989, of metastatic parotid carcinoma.

8. Officer Luce discovered his cancerous condition on December 7,1988.

9. Section 2(c) of the Act provides, in relevant part, that

"killed in the line of duty means losing one's life as a result of injury received in the active performance of duties as a law enforcement officer * * * if the death occurs within one year from the date the injury was received * * *."

Therefore, it is the opinion of the Court:

A. That the petition for rehearing is denied.

B. This Court must find that the injury was received by Officer Luce on August 27, 1980. There is no other evidence before the Court that would indicate another date for the receipt of the injury. Claimant urges us to adopt and use a date of the discovery of the injury rule.

To do so would be to amend the statute which specifically states "if the death occurs within one year from the date the injury was received." We do not have the authority to amend the statute, as much as we may want to make an award on this case. The Court of Claims has no jurisdiction over claims sounding in equity. *Wil-Freds Inc. v. State* (1989), 41 Ill. Ct. Cl. 44; *In re Application of Ward* (1981), 35 Ill. Ct. Cl. 398.

In reviewing this case, this Court must find an injury which occurred within a year of the injury which caused the death to grant a recovery. While coverage under the Act is not limited to healthy people, we still must find an injury which occurs within the year. (*In re Application of Parchert* (1980), 33 Ill. Ct. Cl. 312; *In re Application of Sparling* (1983), 36 Ill. Ct. Cl. 353.) There is no evidence of an injury being inflicted within a year of Claimant's decedent's death in the present case. Discovery in 1988 of the prior injury in 1980 does not fulfill the requirement of the Act.

In the heart attack cases we have decided, we have always looked for something unusual that has occurred within the job that precipitates the heart attack before allowing recovery. (*In re Application of Gidley* (1983), 36 Ill. Ct. Cl. 350.) No unusual job-related circumstances within a year of the death have been related to the Court in this case. If there had been, we certainly would have considered an award. The Claimant has the burden of proof in this case of proving Claimant's decedent was killed in the line of duty within the meaning of the statute. (*In re Application of Lopez* (1987), 39 Ill. Ct. Cl. 315.) Unfortunately, the burden of proof has not been met.

This Court has been consistent in holding that the

death must occur within one year from the date the injury was received and that the injury must arise from violence or other accidental cause. ***(In re Application of Berg*** (1984), 36 Ill. Ct. Cl. 370; ***In re Application of*** *Waliczek* (1983), 35 Ill. Ct. Cl. 929.) This Court has previously denied a claim where cancer was the cause of death. ***In re Application of*** *Findlay* (1977), ***32*** Ill. Ct. Cl. 369.

As harsh a result as this may seem, it is the proper result under the evidence,and law of the case. For the foregoing reasons, it is the order of this Court that the request for rehearing is denied and the claim is dismissed.

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(No. 90-CC-3373—Claim dismissed.)

**DOROTHY HILL, Claimant,** *v.* **THE STATE OF ILLINOIS,** Respondent.

*Order filed July* **21,1992.**

DOROTHY HILL, ***pro se,*** for Claimant.

ROLAND **W.** BURRIS, Attorney General (STEVEN SCHMALL, Assistant Attorney General, of counsel), for Respondent.

JURISDICTION—***jurisdiction to review final administrative decisions is vested in circuit court.*** Section 3—104 of the Code of Civil Procedure provides that jurisdiction to review final administrative decisions is vested in the circuit court.

SAME—***employment—claim seeking to recover amount of unemployment insurance warrant issued by State dismissed for lack of jurisdiction.*** In a claim seeking to recover the amount of **an** unemployment insurance warrant issued **by** the Illinois Department of Employment Security, where the claims adjudicator for the Department's Division of Benefit Payment Control denied reissuance of the warrant after an administrative hearing, the Court

of Claims was without jurisdiction to review the decision and the claim was dismissed notwithstanding an agreement by the parties that an aggrieved individual should proceed in the Court of Claims, since jurisdiction over the matter was vested in the circuit court and could not be altered by the parties' agreement.

## ORDER

**MONTANA,** C.J.

This cause comes on to be heard on the Respondent's motion to dismiss, due notice having been given, no objection having been filed, and the Court being advised, finds:

Claimant filed this claim seeking to recover the amount of an unemployment insurance warrant issued by the Illinois Department of Employment Security. The Division of Benefit Payment Control of the Department of Employment Security holds administrative hearings to determine whether a warrant should be reissued. The claims adjudicator denied reissuance of the warrant.

Section 3—104 of the Code of Civil Procedure (Ill. Rev. Stat. 1987, ch. 110, par. 3—104) states that jurisdiction to review final administrative decisions is vested in the circuit court. The fact that the review of the decision of the Division of Benefit Payment Control is provided through administrative review in the circuit court prevents the Court of Claims from assuming jurisdiction over claims such as the instant one. *Rivera v. State* (1981), 35 Ill. Ct. Cl. 375; *Moore v. State* (1980), **34** Ill. Ct. Cl. 108; *Anaya v. State* (1980), 34 Ill. Ct. Cl. 161.

We further find that Respondent's counsel learned that, notwithstanding and unaware of the above Court of Claims decision, attorneys for the Legal Assistance Foundation of Chicago and the Department of Employment Security entered into a consent decree before Federal

Judge Prentice Marshall in a case entitled ***Bums.*** As part of such decree, the parties agreed to add language to Benefit Payment Control's written administrative decisions that suggested that a person aggrieved by the decision should proceed in the Court of Claims. Respondent's counsel informed both the Legal Assistance Foundation and the Illinois Department of Employment Security of the jurisdictional problem of which the signers of the consent decree were unaware. The Department of Employment Security is attempting to resolve this problem by administratively reissuing or rehearing those pending cases, such as the instant one, where review was erroneously sought in the Court of Claims, so that claimants will have enough time to seek review in the circuit court.

In the motion at bar, Respondent seeks dismissal without prejudice and with leave to file if the Benefit Control Division of the Department of Employment Security does not reissue its administrative decision. Respondent does not indicate how the Court should proceed with the case should it be dismissed and then refiled. Jurisdiction cannot be vested with a court solely based on agreement of the parties and Respondent does not suggest the cited cases are wrong.

Wherefore, it is hereby ordered that this claim be, and hereby is, dismissed for lack of jurisdiction and without leave to refile.

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(No. 91-CC-0082—Claimant awarded $100.)

BILLY JACKSON, Claimant, *v.* THE STATE OF ILLINOIS, Respondent.

***Opinion filed November 6, 1992.***

BILLY JACKSON, *pro se*, for Claimant.

ROLAND W. BURRIS, Attorney General (ROBERT J. IRSUTO and MARGARET MARCOUILLER, Assistant Attorneys General, of counsel), for Respondent.

PRISONERS AND INMATES—*plumbing facilities—damage caused by Something under management* d *State can afford evidence* d *State's want* d *due care.* The management of plumbing facilities in the cells housing inmates of the Department of Corrections' facilities is the responsibility of the State, and when damages have been caused by something under the management of the State and the damages are such that, in the ordinary course of events, the damage would not have happened if the State liad exercised proper care, the incident itself affords reasonable evidence, in the absence of an explanation, that the damages arose out of the State'swant of due care.

DAMAGES—*Claimant has burden* d *proving damages.* The Claimant has the burden of proving his damages and absent such proof, no award may be entered.

PRISONERS AND *INMATES—Water damage to inmate's personal property—State liable—inmite awarded repair* costs. The State was liable for damage to the Claimant's personal property as a result of flooding which occurred in his segregation cell, since there was no evidence that the Claimant or other inmates did anything to cause the flooding, and the Claimant brought the defect to the attention of prison officials who took half an hour to stop the water flow, but the Claimant was only awarded the repair cost of the damaged items because he failed to present reliable evidence as to their actual value.

## OPINION

FREDERICK, J.

This cause comes before the Court on a complaint filed by Claimant, Billy Jackson, on July 12, 1990, seeking the sum of $1,530 pursuant to section 89(d) of the Court of Claims Act (Ill. Rev. Stat. (1989), ch. 37, par. 439.8(d)). Billy Jackson was incarcerated in the Illinois Department of Corrections. The case arises out of an incident that occurred on April 18, 1990, when water flowed into

Claimant's cell, which allegedly damaged personal property owned by Claimant.

The case was tried by the commissioner assigned to the case. Billy Jackson appeared at a hearing conducted on September 6, 1991. Claimant offered Claimant's Exhibit No. 1, which was admitted into the record without objection by the Respondent. The Exhibit is a diagram of Claimant's cell, No. 2A-04, indicating the location of the personal property in question in his cell. This was a cell in segregation where Claimant was in a 24-hour lock up.

Claimant testified that his cell was flooded with the water coming from the ceiling. He brought this fact to the guards attention but it took about one-half hour to shut the water off. It was another one-half hour before Claimant was given a mop to get the water out of the segregation cell. He was told that a pipe had broken in the upper galley. He was lying on his bed in his cell at the time of the flooding. He said the water flowed into his cell for one-half hour. Claimant offered Claimant's Exhibit No. 2, which was admitted into the record without objection by Respondent. The exhibit is a written statement purportedly signed by Correctional Officer Greenwald, Badge No. 20, stating that the signatory witnessed Cell No. 2A-04, and the property in the cell, being flooded from a leak from the roof on April 18,1990.

Claimant's claim for damages to his personal property is detailed as follows:

| | |
|---|---|
| $ 150.00 | for a Pioneer stereo receiver |
| 210.00 | for a Panasonic color television |
| 70.00 | for a Realistic cassette tape player |
| 100.00 | for a Technics turntable |
| 1,000.00 | for transcripts of prior legal proceedings |
| $1,530.00 | Total |

Claimant offered four documents into the record as Claimant's Group Exhibit No. *3,* which was admitted without objection. The exhibit contains four personal property permits: for a Panasonic color TV, a Pioneer stereo receiver, a Realistic cassette deck, and a Technics turntable.

The sums claimed for the property were estimated by Claimant. He arrived at the estimates by setting the value below the original purchase price. He was unsure what the cost would be to replace the transcripts. There were 1,546 pages of court transcripts. On cross-examination, Claimant stated that all of the property could have been repaired for $100. He could not afford the repairs. The property sat in his cell until it rusted. He gave the turntable and cassette deck to his wife. No receipts or other documents stating value or cost were provided. Claimant stated that he purchased the items from the commissary. He purchased the television for $259 over a year before the incident. He purchased the stereo for $220 in 1987.

The stereo equipment and the television were **2%** to *3* feet off the floor on top of a desk. The water dropped from the ceiling onto the property. The water on the floor was 1½ to 2 inches deep.

There were four additional documents that were attached to the complaint and these were offered into the record by Respondent as part of a larger group exhibit. The group exhibit was withdrawn after it was indicated that the four documents were part of the record by virtue of their attachment to the complaint. The four documents are as follows:

1. Formal inmate grievance dated April 18, 1990;
2. Institutional Grievance Board decision dated June 7, 1990.

3. Administrative Review Board Committed Person's Grievance Form dated June 15,1990; and
4. Letter of decision to Claimant dated June 26,1990.

The June 7, 1990, decision of the Institutional Grievance Board includes a statement that Correctional Officer Greenwald told the Board the property in question was damaged from a leak caused by another inmate. The Board found that the flooding was caused by another inmate and concluded that staff negligence was not involved and the grievance had no substance,

The June 26, 1990, decision of the Administrative Review Board denied the Claimant's grievance. The Board indicated that, "there is not sufficient evidence or documentation that the Stateville administrative and/or staff was negligent." While these documents were part of the record, they were not evidence in the case as the State failed to properly file a departmental report (74 Ill. Adm. Code 790.140). Claimant testified that the cell above him was not occupied.

Claimant cites ***Newsome*** *v. State* (1986), **38** Ill. Ct. Cl. 299, in support of his claim. In ***Newsome,*** the claimant's toilet overflowed and destroyed his trial transcript and the Court ordered an award. There was no evidence presented by respondent of another inmate causing the flooding and the Court was of the opinion that Newsome's loss was occasioned by the facilities of respondent and their failure to maintain their equipment. The management of the plumbing facilities in the cells housing inmates of facilities of the Department of Corrections is clearly the responsibility of the State of Illinois. *(Wassinger* ***v.*** *State* (1988), 41 Ill. Ct. Cl. 68.) Furthermore, when damages have been caused by something under the management of the Kespondent and the dam-

ages are such that, in the ordinary course of events, the damage would not have happened if Respondent had exercised proper care, the incident itself affords reasonable evidence, in the absence of an explanation that the damages arose out of the Respondent's want of due care, *Childress v. State* (1985), **37** Ill. Ct. Cl. 269.

It is clear in this case that Claimant did nothing to cause the damage to his own property. It is also clear Claimant brought the defective condition of the leaking water to the attention of Respondent and it took Respondent a half an hour to stop the leak and another half an hour to give Claimant a mop to try to clean up the water in his cell. Claimant was told that the cell above him was unoccupied. Kespondentk attempted use of the Administrative Review Board decision as an explanation is insufficient. Respondent is therefore liable for damages proven by Claimant from the leaking water. The Claimant has the burden of proving his damages and absent such proof, no award may be entered. *Harris v State* (1989), **41** Ill. Ct. Cl. **184.**

In this cause, Claimant presented no evidence as to the cost of the transcript. His claim for $1,000 was nothing more than a guess. Claimant presented no receipts or cancelled checks for the other items of personal property. His values for the stereo and panasonic television, while based on when they were purchased and the purchase price, were admittedly estimates by Claimant. The most credible evidence presented by Claimant was that everything could have been repaired for $100.

Accordingly, it is hereby ordered that the Claimant be, and hereby is, awarded the sum of $100 in full and final satisfaction of this claim.

(No. 91-CC-0177—Claimant Regugio Raygoza awarded $500; Subrogee Allstate Insurance Co. awarded $754.19.)

REGUGIO RAYGOZA and ALLSTATE INSURANCE CO., as Subrogee, Claimants, *v.* THE STATE OF ILLINOIS, Respondent.

*Opinion filed August 31,* 1992.

SIMON, MCCLOSKY & SCOVELL, for Claimant.

ROLAND W. BURRIS, Attorney General (STEVEN SCHMALL, Assistant Attorney General, of counsel), for Respondent.

NEGLIGENCE—*Claimant motorist's automobile damaged when unmarked police car run stop sign—State liable—motorist and subrogee insurer awarded damages.* Where a State Police Officer who was in pursuit of an alleged traffic offender drove his unmarked police car past a stop sign and into an intersection, colliding with the Claimant motorist's vehicle, the State was liable to the motorist and his insurance company as subrogee for the resulting property damage to the motorist's car, since the motorist, who did not see the police car's flashing mars light prior to tlie collision, had tlie right-of-way and the policeman failed to yield before entering the intersection.

## OPINION

JANN, J.

This claim sounding in tort was brought for property damages to Claimant Raygoza's automobile arising out of a collision with Illinois State Police Officer, Ivan Martinez, on August 3, 1989.

Claimant was northbound on Damen Avenue, Chicago, Illinois, and Officer Martinez was eastbound on 23rd Street. Officer Martinez testified that he was pursuing an alleged offender in a vehicle which had failed to stop at the stop sign on 23rd Street at Damen Avenue. Officer Martinez was driving an unmarked police car and stated he had activated a mars light which he had placed and held on the dash prior to arriving at the intersection in question. He testified that as he entered the intersection, he thought Claimant was going to yield even though

there was no traffic control signal applicable to Claimant.

Claimant testified he saw a white vehicle come into the intersection from 23rd Street without making a complete stop. The white car cut in front of him and proceeded north on Damen. This vehicle was the object of Officer Martinez' pursuit. Claimant slowed down to avoid colliding with the errant vehicle before crossing the intersection. He slammed on his brakes but was unable to avoid the collision with Officer Martinez' car which was in pursuit of the white car. Claimant never saw the flashing mars light prior to the collision.

Evidence of property damage to Claimant's vehicle was presented. Repairs totaled **$1,254.19.** Claimant was paid **$754.19** by Allstate Insurance Company and paid a deductible of $500.

Assuming, *arguendo,* that Officer Martinez was displaying the mars light on his dash immediately preceding the collision, it is still the responsibility of the police officer to make sure that a vehicle operating legally with the right-of-way is going to stop before entering an intersection. The cause of this collision was the officer's failure to yield the right-of-way to Claimant's vehicle. Claimant's property damage was the proximate result of Respondent's negligence.

Wherefore, Claimant is awarded $500 for the deductible amount of his insurance policy and Allstate Insurance Company, as subrogee, is awarded **$754.19** for repair of the vehicle.

(No. 91-CC-0390—Claim denied.)

**MALCOLM WHITEHEAD,** Claimant, *v.* **THE STATE OF ILLINOIS,** Respondent.

***Opinion filed November 17, 1992.***

MALCOLM WHITEHEAD, *pro* **se,** for Claimant.

ROLAND W. BURRIS, Attorney General (DIANN MARSALEK and STEVEN SCHMALL, Assistant Attorneys General, of counsel), for Respondent.

*PRISONERS* AND ***INMATES—what Claimant must establish in claim for improper medical care.*** In order to state a claim for improper medical care, the Claimant must establish a breach of duty through expert testimony to show that the Respondent deviated from the required standard of care.

SAME—*inmate's* ***claim that defective prison boots and State's improper medical care caused injury denied. In*** an inmate's claim alleging that he suffered severe foot pain as a result of defective, ill-fitting prison boots, which were issued to him at a State correctional facility, and because of the State's improper medical care the claim was denied since the medical records and testimony indicated that the Claimant's obesity and overall ill health caused his feet to hurt, and there was neither evidence to support his claim of a defect in the plastic toe cap of the boots nor any proof establishing that the State deviated from the required standard of medical care.

## OPINION

JANN, J.

The substance of Claimant's complaint is that during his incarceration at Logan Correctional Center, his feet were in a constant and continuous painful condition as a result of:

a) improperly sized boots issued to him (Claimant wears a size 12-E and prison boots are issued only in standard sizes—with no special width determination);

b) the boots that were issued to him were defective; and

c) the medical care he sought for his painful feet

was inadequate.

The testimony is clear that throughout Claimant's incarceration, he continuously complained of painful feet and, as a result of those complaints, he was seen by two different staff doctors on at least six occasions. At each of those visits to the staff physicians (Dr. F'einerman and Dr. Ulrich), his feet were examined. On more than one occasion, Dr. Ulrich removed callouses from Claimant's feet. Eventually Claimant was issued a slow walker's pass—so that he would not be punished for being late to various details—and ultimately the medical staff assisted Claimant in obtaining a specially-ordered, low-cut second pair of prison shoes.

Claimant contends that since his feet were not properly attended to, he has been unable, since his release from Logan, to obtain a job in his chosen field (house painter) and claims lost wages in an amount of at least $10,000. Further, Claimant seeks an additional $5,000 for aggravation.

The Respondent contends that while Claimant was an inmate at Logan Correctional Center, he was properly and continuously attended to. Indeed, the records indicate that in the six-month period from December 1989 to July 1990, he visited the clinic 34 times. They point out that Claimant was in poor physical health, having suffered a stroke in 1987, which left his whole left side weak. He also suffered from acute hypertension, diabetes and obesity (weighing in the neighborhood of 350 lbs.). The State contends, on balance, that the cumulative effect of Claimant's overall ill health was basically the reason that his feet hurt. Respondent's contention is supported by medical records from Claimant's hospitalization in 1987 which indicated that Claimant showed "extensive callous

formation at the feet bilaterally" and "patient has decreased heel-to-shin on the right because of difficulty moving the weight."

The Claimant contends that the shoes first issued to him at Logan were defective. He testified that the alleged defect in a plastic toe cap of the shoe caused his condition which will now require a surgical procedure. Claimant's allegation of defect is not supported by objective testimony or medical records made a part of the record at hearing.

Claimant testified that upon his release he sought further treatment at a private foot specialist, Dr. Hugh D. Russell, Chatham Foot Specialists. Claimant testified that it was Dr. Russell's opinion that the ill-fitting shoes caused injury to his feet. However, the records subpoenaed and introduced into evidence from Dr. Russell make no indication of the cause of his condition resulting from shoes. The records again make note of Claimant's obesity, hypertension and the presence of bunions and callouses.

No proof of improper medical care was presented other than Claimant's conclusory testimony. Claimant must establish a breach of duty through expert testimony to establish that Respondent deviated from the required standard of care. ***Davis v. State,*** **39** Ill. Ct. Cl. **185.**

There is simply insufficient evidence that the shoes issued to Claimant are the cause of his current condition. An award cannot be based on mere conjecture, but it must be proven more probably true than not true that the State's negligence was in fact at least a probable cause of the Claimant's injury. ***Walter v. State, 42*** Ill. Ct. Cl. **1.**

The record indicates that Claimant received contin-

uous care during his incarceration. Claimant has failed to prove that Respondent breached its duty of care to Claimant.

Wherefore, this claim is hereby denied.

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(No. 91-CC-0630—Claimant awarded $175.)

RONNIE HAMILTON, Claimant, *v.* THE STATE OF ILLINOIS, Respondent.

***Opinion filed*** *October* ***29, 1992***

RONNIE HAMILTON, ***pro se,*** for Claimant.

ROLAND W. BURRIS, Attorney General (GREGORY T. CONDON, Assistant Attorney General, of counsel), for Respondent.

**PRISONERS AND INMATES**—*inmate's* ***television*** *damaged*—*administrative* ***award so low as to deprive Claimant*** *of property*—*award* ***granted.*** On an inmate's motion for summary judgment in his claim seeking the $192.88 difference between the cost of a television similar to his own which was permanently damaged by the State, and the amount he was awarded through prison administrative procedures, the Claimant's motion was granted and he was awarded the amount sought less some minor depreciation, since the $49.12 administrative award was so low as to deprive the Claimant of his property.

## OPINION

SOMMER, J.

This claim is before the Court on a motion for summary judgment filed by the Claimant and a counter-motion for summary judgment filed by the Respondent. The parties have presented various documents with their motions, and the Claimant has provided by affidavit certain information requested by this Court's order of July 24, 1992.

The facts of this claim are agreed. When the Claimant was moved from Menard Correctional Center to the Dixon Correctional Center in April of **1990,** his television arrived at Dixon in a nonworking condition. The television had been working when it left Menard. The Claimant states that "the picture tube and the circuit boards and other inside components, were permanently broken."

The Claimant went through the prison administrative procedures and was awarded **$49.12.** He contends that a similar television costs **$242,** and that he should receive the difference between **$242** and **$49.12,** which is **$192.88.**

The State contends that the Claimant accepted **$49.12** in full and complete satisfaction of his claim, and that he signed an agreement releasing the State from liability for damage of his personal property.

It is our opinion that the State's contentions are faulty, The signed release is a part of the Claimant's **1986** permit to have the television. The Claimant had no choice but to sign; and if such presigned releases were effective, no prisoner would ever recover for damage to his property. This Court has consistently held that prisoners can recover for damage to property held exclusively in the possession of the State. Additionally, the State contends that the Claimant is bound by the administrative decision to award him **$49.12** and the fact that he accepted the money. In matters such as this, monies awarded from the tort claim fund are placed in the prisoner's trust account. We do not believe that the placing of the money in the trust fund amounts to a full satisfaction and accord agreed to by the Claimant.

The question remaining is whether the amount of **$49.12** is adequate. This figure was arrived at by assigning

substantial depreciation. In this case the Claimant either has a working television set or he has nothing, and as the Claimant is a pauper, his being able to raise the entire remaining **$192.88** to buy **a** new set is problematical, The prison administrative procedure may not make low awards and claim such to be binding, thereby depriving the prisoner of his property.

In this claim we believe the administrative award to be so low as to deprive the Claimant of his property. We award the Claimant $175, allowing for some depreciation. It is therefore ordered that the Claimant's motion for summary judgment is granted and the Respondent's countermotion for summary judgment is denied, and the Claimant is awarded $175.

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(No. 91-CC-0796—Claim denied.)

**ROSEMARIE KROLIK,** Claimant, *v.* **THE STATE OF ILLINOIS,** Respondent.

***Opinion filed May 17, 1993.***

**ROSEMARIE KROLIK,** *pro se,* for Claimant.

**ROLAND** W. BURRIS, Attorney General **(MARGARET** A. **MARCOUILLER,** Assistant Attorney General, of counsel), for Respondent.

HIGHWAYS—*State* ***not liable*** *for damage caused* ***in towing*** *abandoned motor* ***vehicles*** *from publicly owned property.* Pursuant to the Illinois Vehicle Code, any law enforcement agency in the case of a publicly owned real property may cause any motor vehicle abandoned or left unattended upon such property without permission to be removed by a towing service without liability for the costs of removal, transportation or storage, or damage caused by such removal, transportation or storage.

SAME—*vehicle left* ***unattended on roadway—claim*** *for damage* ***caused*** *by towing—claim* ***denied.*** Where the Claimant sought compensation for

damage to her automobile which allegedly occurred when the vehicle was towed after it ran out of gas and was left unattended near a highway exit ramp, the claim was denied since, even assuming that the car was pulled off the roadway and onto the shoulder so as not to impede traffic as the Claimant alleged, the State had statutory immunity from liability for damage caused by towing the vehicle which was left on public property

## OPINION

JANN, J.

Claimant seeks compensation for damage to her 1972 Pontiac Grand Prix which allegedly occurred on August 10, 1989, when the car was towed off of Interstate 55 by an Illinois Department of Transportation (IDOT) tow truck. Claimant ran out of gas near the Kedzie Avenue exit ramp and the California Avenue entrance ramp on the Stevenson Expressway. Claimant testified that she pulled the car off the roadway onto the shoulder and that it was not an impediment to other traffic. Claimant left the vehicle and went to purchase fuel.

Respondent's employee, Charles LoCoco, an IDOT tow truck operator, testified that Claimant's vehicle was left unattended in the roadway and was obstructing traffic. Mr. LoCoco testified that it is IDOT policy to move abandoned autos out of the roadway to the nearest safe location in as expedient a manner as possible. Mr. LoCoco further stated that as this incident occurred during rush hour at a point where there was no shoulder to the roadway, the vehicle presented a particularly dangerous situation. Mr. LoCoco towed the auto to a safe area.

Claimant claims the auto was negligently towed over the curb line which caused damage to the vehicle, rendering it inoperative in its present condition. Claimant seeks damages in the amount of $1,122 for alleged damage to the frame and transmission of her car.

Although a number of factual matters are disputed by the parties, the record is clear that Claimant left her auto unattended on or near a public roadway. Pursuant to the Illinois Vehicle Code (Ill. Rev. Stat. 1991, ch. 95½, par. 4—203(f), which in pertinent part reads as follows:

"Any law enforcement agency in the case of a publicly owned real property may cause any motor vehicle abandoned or left unaitended upon such property without permission to be removed by a towing service without liability for the costs of removal, transportation or storage or damage caused by such removal, transportation **or** storage."

Assuming each and every allegation made by the Claimant is true and correct, the legislature has provided immunity for the State during the course of such removal and the Claimant has provided no facts which place her outside the scope of this immunity.

Wherefore, Claimant's claim is hereby denied and this cause of action is dismissed with prejudice.

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(No. 91-CC-1047—Claimant awarded $4,500.)

**STEVEN KARRY,** Claimant, *v.* **THE STATE** OF **ILLINOIS,** Respondent.

*Opinionfiled* ***October*** 20,1992.

STEVEN KARRY, *pro se,* for Claimant.

ROLAND W. BURRIS, Attorney General ("KAY" **CHRISTINE M.** GIACOMINI, Assistant Attorney General, **of** counsel), for Respondent.

PRISONERS AND INMATES—*inmate injured in slip and fall—State was negligent-award adjusted due to Claimant's contributoy negligence.* An inmate prevailed in his negligence claim against the State as a result of injuries he received when he slipped and fell in water from a shower which had accumulated on the floor outside his cell, since the State knew of and was responsible for the dangerous condition yet failed to implement any of

the reasonable safeguards suggested by the Claimant, and it was foreseeable that an inmate would be injured on the wet floor, but the Claimantb award was reduced by 25% because of his contributory negligence.

SAME—*slip and fall—claims for* ***medical negligence*** *and* ***denial*** *of due* ***process*** *denied.* Where an inmate who was injured in a slip and fall outside his prison cell sought damages for the prison medical staff's alleged negligent medical treatment of his injuries, and for a denial of due process stemming from the Court's refusal to appoint him counsel, the claims were denied, since there was no expert testimony presented regarding the relevant standard of care to support the inmate's medical negligence claim, and there is no provision in the law for appointed counsel in the Court of Claims.

## OPINION

SOMMER, J.

The Claimant brings this claim for personal injuries he alleges he received as a prisoner in the Illinois Department of Corrections. The Claimant alleges that on June 14, 1990, water flooded his cell and hallway outside his cell and that he slipped on the wet floor and injured himself. He also alleges the prison medical staff was negligent in the treatment of his injuries. Further, he claims a denial of due process in that the Court refused him appointed counsel.

In February 1990, the Claimant was incarcerated at the Centralia Correctional Center. He was placed in a cell next to a shower. The shower curtain was at least a foot above the floor, so water from the shower came out into the wing of the prison. The porters would mop up the water periodically. The Claimant complained and requested his cell be changed. The Claimant then was moved to a different cell but it, too, was next to a shower. He encountered the same water problem.

The Claimant testified that on June 14, 1990, he was returning to his cell from his GED class. As he walked into the corridor of his wing, he found water on the floor. He went into his cell and changed his clothes. He left his

cell and went to his graduation. He returned two hours later. He changed his clothes in his cell. He was told by an officer to report to the kitchen. When he came out of his cell, he slipped and fell in the water and hit his head. When he tried to get up, his leg and back were painful and he couldn't move. Another inmate eventually helped him into his cell where he went into a deep sleep. He was taken later to the medical unit in a wheelchair. He was given two Tylenol pills and told to walk back to his unit. When the Claimant told the nurse he could not walk, he was told to return to his unit or be written up for violating a direct order. It took him **20** to **30** minutes to walk back to his cell because he was in so much pain. He did not get to see the doctor but was given a three-day lay-in slip by the nurse. He saw the doctor on June 18, 1990. The Claimant was X-rayed and given Advil. The Claimant was told the **X** rays were negative.

On August 5, 1990, the Claimant was transferred to the prison at Danville. He saw the doctor at Danville on August 17, 1990. The Danville doctor put the Claimant on heat treatment and gave him pain medication and muscle relaxers. He was given a CAT scan. The Claimant contends it showed that his spine, at L4 and L5, was compressed and the cartilage in the middle was swollen. At the time of trial, the Claimant was still under the doctor's care and wore a back brace. He was taking medication and periodic heat treatments.

The Claimant's complaint is that the officials at Centralia knew the shower curtains were too short to prevent water from staying in the shower and that they did not take any steps to make a hazardous condition less hazardous. The Claimant testified **as** to various options available. The officials could have put on a longer shower curtain. They could have put a drain in the hall closer to the

shower. They could have had the porters mop the floor more often or had each inmate mop the floor as he finished a shower.

The Claimant testified that in prison he has no choice as to where he lives. He must follow orders. He could not have refused to go to the kitchen through the water when he was so ordered.

The Claimant is a concrete maintenance worker by trade and now that his back hurts he contends that he may not be able to do that work. He believes he should be compensated for his anguish, pain and suffering.

The State's evidence was that the shower curtains are short for security reasons, so that officials could determine if more than one inmate is in the shower stall. The Claimant partially rebutted this contention by pointing out there is a window for the guard to look into the shower. There is a four-inch curb outside the shower stall which is supposed to keep excess water from going into the inmate cell area.

The Claimant's medical progress notes in the departmental report corroborate his testimony. The June 15, 1990, notes indicate "I slipped in the water outside my cell," and that the Claimant complained of back pain. On June 18, 1990, the Claimant was seen by a nurse and complained of pain and numbness. The Claimant saw the medical staff in regard to his back on August 5, 6 and 18, 1990. On August 18, 1990, he complained the back was affecting his left leg. He again was seen on August 20 and 31 and September 1, 4 and 17, 1990, and complained of lower backaches and back pain. The medical records indicate the CAT scan in September of 1990 and many visits to the medical unit for back pain through the end of 1990. The CAT scan indicated minimal bulging of the

disc at L4-W. There was also moderate herniation of the disc at L5-S1 on the left side. At the end of 1990, the medical records indicated some improvement in the Claimant's condition. At the time of the trial, the Claimant's back was much better, though he claimed it still seized up from time to time.

In the present case, the State was responsible for the water being in the hallway and knew of the condition. Even with the security reasons for the short shower curtains, the State had a duty to protect its prison inmates from a dangerous condition known to the State. All of the possible safeguards propounded by the Claimant were reasonable and inexpensive and could have been implemented in some combination to lessen the chance of persons slipping on the wet floor. It was foreseeable that an inmate would slip, fall and injure himself on this wet floor. Therefore, we find that the State was negligent.

The Respondent has raised the issue of contributory negligence in this claim and has cited *LeMasters v. State* (1981), 35 Ill. Ct. Cl. 90, a prison slip and fall case, for the proposition that the Claimant's failure to exercise due care while walking on a wet floor should defeat his claim.

This Court believes that the *LeMasters* case, *supra,* represents a precomparative negligence standard, while *Conners v. State* (1988), 40 Ill. Ct. Cl., represents the application of the comparative negligence standard. The Claimant in *Conners, supra,* was walking on a wet floor when he fell, and he knew the floor was wet and slippery. In fact, the Claimant in *Conners, supra,* walked off of a protected area. His negligence was found to be 50% of the proximate cause of the accident.

In this claim, the Claimant was aware of the wet condition, but he had no choice but to walk through it.

This Court finds that the Claimant did fail to use due care at the time of his fall, but that his negligence would not be as great a percentage of the total fault as in *Conners, supra.* We find that the Claimant's failure to use due care was 25% of the proximate cause of the accident.

The Claimant's claim of medical negligence must be denied. There was no proof presented as to the standard of care or that the Respondent deviated from the standard of care. There was no expert testimony presented.

The Claimant's argument for appointed counsel must also fail as there is no provision in the law for appointed counsel in the Court of Claims. It is also obvious from the record that the Claimant has presented a case worthy of a licensed attorney.

The permanency of the Claimant's condition and whether it would present a loss of use in future years is speculative. Evidence tends to establish that the Claimant's condition had improved substantially by the time of trial and the prognosis was good. The Claimant was incapacitated for a period of time and did have pain and suffering and may have some small residual pain in the future, We find that the Claimant suffered damages in the amount of $6,000, which shall be reduced 25% to $4,500 because of the Claimant's contributory negligence.

It is therefore ordered that the Claimant is awarded the sum of $4,500.

(No. 91-CC-1131—Claim denied.)

DONALD TACKETT, Claimant, *v.* THE STATE OF ILLINOIS, Respondent.

*Opinion filed March 23, 1993*

DONALD TACKETT, *pro se*, for Claimant.

ROLAND W. BURRIS, Attorney General (DIANN K. MARSALEK, Assistant Attorney General, of counsel), for Respondent.

PRISONERS AND INMATES—*state's duty of care regarding prisoners' health treatment.* The State has a duty of care with respect to the proper health treatment of inmates in the custody of the Illinois Department of Corrections, and the State is required to exercise ordinary and reasonable care for the preservation of a prisoner's life and health.

SAME—*allegations of improper medical care must be proved by expert testimony.* Allegations of improper medical care are allegations of medical malpractice and must be proved by expert testimony, and the Court of Claims may not conclude on its own what is or is not appropriate medical care under the circumstances of the case without the aid of such testimony.

SAME—*tooth extraction—inmate's claim for improper medical care not supported by expert testimony—claim denied.* An inmate's claim alleging that post-operative side effects which he experienced after having a tooth extracted such as numbness and tingling were the result of improper medical care was denied, where the inmate failed to offer any expert testimony to support his conclusion that he could have been treated differently or that his post-surgical complications could have been avoided.

## OPINION

BURKE, J.

On November 8, 1989, Claimant was an inmate at Pontiac Correctional Center. Following a dental examination, it was determined that Claimant's third molar, No. 17, should be extracted. The oral surgery was performed by Dr. Frederick Craig, a board-certified oral surgeon. Dr. Craig was assisted by Dr. Jacqueline Mitchell.

Dr. Craig advised Claimant of possible post-surgical complications prior to the surgery, including the possibil-

ity of numbness. The location of the tooth required that it be cut and then removed in sections to eliminate pressure and possible fracture of the **jaw.** The surgery was performed without complication. On the day following surgery, Claimant was unable to open his mouth. Dr. Mitchell advised Claimant that it was a normal side effect of the surgery and prescribed a muscle relaxant, a pain medication and a liquid nutrient.

Twelve days after the surgery, Claimant was examined by Dr. Craig. Claimant complained of numbness to his tongue, sensitivity to hot and cold, and a tingling sensation to his tongue. Dr. Craig advised Claimant that the sensations he was experiencing could be temporary or permanent because the lingual nerve, the nerve through the tongue, may have been affected by the removal of the molar. Dr. Craig stated that the post-operative side effects which Claimant experienced were normal, though not common, complications of the surgery.

The issue before this Court is whether the agents of the State of Illinois were negligent in rendering medical treatment to Claimant. The Respondent has a duty of care with respect to the proper health treatment of inmates in the custody of the Illinois Department of Corrections. The State is required to exercise ordinary and reasonable care for the preservation of a prisoner's life and health. ***(Peters v. State*** (1987), **40** Ill. Ct. Cl. **152, 153.)** Allegations of improper medical care are allegations of medical malpractice and must be proved by expert testimony. (Woods ***v. State*** (1985), ***38*** Ill. **Ct.** Cl. 9, 26; ***O'Donnell v. State,*** **34** Ill. Ct. Cl. 12; ***Porter v. State*** (1965), **25** Ill. Ct. Cl. **62.)** The Court may not conclude on its own what **is** or is not appropriate medical care under the circumstances of the case without the aid **of** expert testimony. ***Peters v. State*** (1987), **40** Ill. Ct. Cl. **152,153-54.**

In the instant case, the record does not indicate improper or negligent medical care was afforded to the Claimant other than the conclusions of the Claimant. Claimant failed to offer any expert testimony to support his conclusion that he could have been treated differently or that the post-surgical complications from which he suffers could have been avoided.

Wherefore, it is hereby ordered that Claimant failed to meet his burden of proof and the instant claim is denied.

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(No. 91-CC-1330—Claim dismissed.)

**ARTHUR NIKELLY,** Claimant, *v.* **THE BOARD OF TRUSTEES** OF **THE UNIVERSITY OF ILLINOIS,** Respondent.

*Opinion filed* ***December*** 9, *1992.*

*Order filed* ***March*** **30, 1993.**

MARVIN GERSTEIN, for Claimant.

FRED HEINRICH, for Respondent.

***PRACTICE AND PROCEDURE—tort claim involuntarily*** *dismissed* ***in circuit court—statute of limitations expired prior*** *to* ***filing in Court*** *of Claims—claim* ***dismissed.*** Where, during the pendency of the Claimant's tort action which he filed in circuit court against the Respondent university, the relevant two-year statute of limitations expired and the case was subsequently involuntarily dismissed for want of jurisdiction, the claimant could not thereafter file his action in the Court of Claims despite his contention that section 13—217 of the Code of Civil Procedure allowed him to do so notwithstanding the expiration of the limitations period, since the statute's protection was unavailable to plaintiffs whose actions were involuntarily dismissed.

## OPINION

PATCHETT, J.

This matter comes before the Court upon the mo-

tion to dismiss filed by Respondent, and the objections to said motion filed by the Claimant. Claimant filed a tort cause of action alleging intentional interference of contract and intentional infliction of emotional distress in the Sixth Judicial Circuit, Champaign County, Illinois. The act giving rise to the tort cause of action occurred on or before October 9, 1987, and Claimant commenced his action in the circuit court well within the two-year statute of limitations period as required by Ill. Rev. Stat. (1991), ch. 37, par. 439.22(h).

The Circuit Court for the Sixth Judicial District dismissed Claimant's cause of action for want of jurisdiction. The Illinois Court of Appeals for the Fourth District upheld the order of the circuit court, and dismissed Claimant's complaint for want of jurisdiction on October 25, 1990. During the pendency of this action, the two-year statute of limitations expired on October 9, 1989.

It is Claimant's contention that under Ill. Rev. Stat. (1991), ch. 110, par. 13—217, he had one year from the time of dismissal to file his cause in the Court of Claims.

The facts show that the circuit court of Champaign County dismissed this case involuntarily for want of jurisdiction, and the fourth district affirmed after the statute of limitations expired. Under Ill. Rev. Stat. (1975), ch. 83, par. 24(a), a plaintiff whose suit was dismissed involuntarily could commence a new action within one year of the dismissal order, if the statute expired during the pendency of the suit. The statutory basis under the old statute was the language: "* * * or, if the Plaintiff has heretofore been suited or shall be non-suited." The Illinois General Assembly subsequently amended this statute, and excluded from the amendment the language allowing for the refiling of an involuntary dismissal. (Ill. Rev. Stat.

(1977), ch. **83,** par. 24(a).) Three cases are cited by Claimant, two of which occurred before the change in the statute in 1976. The third case, ***Edwards v. Safer Foundations, Inc.*** (1988), 171 Ill. App. 3d 793, 525 N.E.2d 987, adopts the pre-amendment case law in the first district.

In light of the recent supreme court decision in ***DeClerck v. Simpson*** (1991), 143 Ill. 2d 489, 577 N.E.2d 767, this Court cannot adopt the rationale of the first district. In ***DeClerck***, the Illinois Supreme Court refused to take an expansive view of section 13--217. They refused to read into the statute an exception for improper venue. This indicates the Illinois Supreme Court's reluctance to extend section 13—217 beyond its statutory limits.

This Court reaffirms its holding in ***Gunderson v. State*** **(1980), 33 Ill.** Ct. Cl. **297,** that section **13—217** affords protection only to plaintiffs whose lawsuits are voluntarily 'dismissed. Its protection is unavailable to plaintiffs whose actions are involuntarily dismissed.

Since the statute of limitations expired prior to the time of filing in the Court of Claims, it is the opinion of this Court that under section 13—217 of the Illinois Code of Civil Procedure, Claimant's objections to Respondent's motion to dismiss are incorrect.

It is hereby ordered that Respondent's motion to dismiss be sustained, and Claimant's motion to strike Respondent's motion to dismiss be denied. This cause is dismissed.

ORDER

PATCHETT, J.

This cause comes on for hearing upon the petition

for rehearing filed by the Claimant. An opinion was issued on this case on December 9, 1992, dismissing the claim. On January 7, 1993, the Claimant filed a petition for rehearing and a request for oral argument. The Respondent filed an objection to petition for rehearing on January 13,1993.

The Court has carefully reviewed the petition for rehearing and the objection to petition for rehearing. The petition for rehearing cites no new authority or new arguments for the proposition that a rehearing should be granted. It does include arguments that the Court's opinions have somehow denied the Claimant due process, equal protection, or that the Illinois Code of Civil Procedure is unconstitutional.

This Court lacks jurisdiction to rule on the constitutionality of Illinois statutes. In addition, there is no citation of authority to bolster the Claimant's position that the prior opinion of this Court somehow violated the Claimant's constitutional rights.

Therefore, we see no reason for giving oral argument. We hereby deny the petition for rehearing.

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(No. 91-CC-1755—Claim dismissed.)

MAMIE BLAKELY, Individually and as the Administrator of the Estate of ROBERT D. MORRIS, Claimant, *v.*

THE STATE OF ILLINOIS, Respondent.

*Order filed June* **25,1993.**

BRESLER, BRENNER, **MOLTZEN** & HARVICK, for Claimant.

ROLAND W. BURRIS, Attorney General (BARRINGTON D. BAKER, Assistant Attorney General, of counsel), for Respondent.

EXHAUSTION OF REMEDIES—*Claimant* ***must*** exhaust all other *remedies before* seeking *relief* in Court of Claims. Section 25 of the Court of Claims Act and Rule **6** of the Court of Claims Regulations require that any person who files a claim before the Court of Claims shall exhaust all other remedies and sources of recovery, whether administrative, legal or equitable, and although incidents involving another tortfeasor whose identity is unknown may be excluded from this requirement, where there **is** another known tortfeasor, the Claimant must seek his remedy first against that tortfeasor.

**PRISONERS AND** INMATES—wrongful death *action—Claimant* failed to exhaust remedies against *known tortfeasor—claim* dismissed. **A** claim by the administrator of a deceased inmate's estate seeking damages for personal injuries sustained by the inmate and alleging wrongful death was dismissed, because the Claimant failed to exhaust her remedies by pursuing a civil action against the other alleged tortfeasor who was specifically named in her claim.

## ORDER

FREDERICK, J.

This cause coming on to be heard on the motion of Respondent to dismiss the claims herein, due notice having been given the parties hereto, and the Court being fully advised in the premises:

The Court finds that the claim herein seeks damages for personal injuries allegedly sustained by Robert Moms during an incident which occurred while he was *an* inmate at the Joliet Correctional Center in Joliet, Illinois. Based upon this incident, the Claimant alleges wrongful death. According to the Claimant's complaint, it was the negligence of the Department of Corrections which caused the plaintiff these alleged injuries. We note that section 25 of the Court of Claims Act (Ill. Rev. Stat. **1989,** ch. **37,** par. 439.24—5) and Rule **6** of the Court of Claims Regulations **(74** Ill. Adm. Code **790.60)** require that any person who files a claim before the Court of Claims shall

exhaust all other remedies and sources of recovery whether administrative, legal or equitable.

The leading case regarding the Court of Claims exhaustion of remedies requirement is *Doe v. State* (1991), **43** Ill. Ct. Cl. 172, which is dispositive of the case at bar. In *Doe,* claimant, a patient at John J. Madden Health Center, brought suit against the State after she had been sexually assaulted by another Madden patient. The claimant sued the State but did not file an action against her assailant. Accordingly, Respondent moved to dismiss for failure to exhaust remedies pursuant to section 25 of the Court of Claims Act and Rule 6 of the Court of Claims Regulations. This Court, in *Doe,* followed the reasoning set forth in *Boe v. State* (1984), *37* Ill. Ct. Cl. 72, where we held that claimants "must exhaust *all* possible causes of action before seeking final disposition of a case filed in the Court of Claims." (Emphasis in original.) The language of section 25 and Rule 6 clearly makes the exhaustion of remedies mandatory rather than optional. To quote our prior watershed exhaustion of remedies case, Lyons *v. State* (1981), **34** Ill. Ct. Cl. 268, we stated:

"The requirement that claimant exhaust all available remedies prior to seeking a determination in this Court is clear and definite in its terms. It is apparent to the Court that claimant had sufficient time to both become aware of his other remedies and to pursue them accordingly. The fact that claimant can no longer pursue those remedies cannot be a defense to the exhaustion requirement. If the Court were to waive the exhaustion of remedies requirement merely because Claimant waited until it was too late to avail himself of the other remedies, the requirement would be transformed into an option, to be accepted or ignored according to the whim of all claimants. We believe that the language of Section **25** of the Court of Claims Act (cite omitted) and Rule 6 of the Court of Claims quite clearly makes the exhaustion of remedies mandatory rather than optional." **37** Ill. Ct. Cl. 76; 34 Ill. Ct. Cl. 271-72.

These principles were most recently used in our dismissal of the case of an inmate who had allegedly been

attacked by his cellmate. We held that claimant failed to exhaust his remedies by not pursuing a civil action for damages against the assailant. ***Lutz*** *v. State* (1989), **42** Ill. Ct. Cl. **124.**

We find as we did in ***Doe*** and ***Lutz,*** that the instant Claimant had an affirmative duty to exhaust all remedies available before seeking damages in the Court of Claims. Thus the Claimant has failed to comply with section **25** of the Court of Claims Act, *supra,* and Rule **6** of the Regulations of the Court. Rule 9 of the Court of Claims Regulations provides that failure to comply with the provisions of Rule 6 shall be grounds for dismissal. **74** Ill. Adm. Code 790.90.

In the past we have excluded from section **25** those incidents wherein the other tortfeasor was unknown. However, in the present case, the Claimant specifically names the other alleged tortfeasor and fails to state that a suit for wrongful death was filed against that known tortfeasor.

If there is a known tortfeasor, the claimant must seek his remedy first against that known tortfeasor. The case in the Court of Claims would be placed on general continuance until the State court claim is concluded. The Claimant in this case has failed to follow our precedents and the law.

It is therefore ordered that the motion of Respondent be, and the same **is** hereby, granted, and the claim herein is dismissed.

(No. 91-CC-1857—Claimant awarded $2,196.45.)

**WILLIAM HOLLAND,** Claimant, *v.* **THE STATE OF ILLINOIS, Respondent.**

*Opinion filed July 21, 1992.*

WILLIAM HOLLAND, *pro* se, for Claimant.

ROLAND W. BURRIS, Attorney General ("KAY" CHRISTINE M. GIACOMINI, Assistant Attorney General, of counsel), for Respondent.

**PRISONERS AND INMATES**—*State* has ***duty to safeguard inmate's property taken into its possession.*** The State has a duty to exercise reasonable care to safeguard and return an inmate's property when that property is taken into the State's actual physical possession during transfers from one institution to another or when the institution issues a receipt for certain property.

**NEGLIGENCE**—***loss or damage of bailed property raises presumption of negligence.*** The **loss** or damage of bailed property while in the possession of a bailee raises a presumption of negligence which the bailee must rebut by evidence of due care.

**PRISONERS AND INMATES**—***inmate's personal property lost during prison transfer—State failed to rebut presumption of negligence—damages awarded.*** Where the State took into its possession personal property of an inmate who was being transferred to another prison, inventoried the property, and gave the inmate a receipt for his wedding band, but failed to return the wedding band and several other items to him upon his arrival at the other facility, the circumstances gave rise to a presumption of negligence on the part of the State which it failed to rebut, and the inmate was entitled to receive what the Court determined to be the fair market value of the property.

## OPINION

MONTANA, C.J.

Claimant, William Holland, filed his complaint in the Court of Claims on January **2,** 1991. The complaint seeks $3,700 in damages against the State. Claimant alleges that the State took possession of his personal property and did not return it.

The case was tried before the commissioner assigned to the case. The evidence consists of the transcript of tes-

timony taken August 29, 1991, Claimant's exhibits 1, 2, 3, 4, 5, 6; Respondent's exhibit 1; and the departmental report.

The Claimant filed his brief. The Respondent has failed to file a brief.

The Facts

On or before October 18, 1989, Claimant was a prisoner in the Illinois Department of Corrections at the Pontiac Correctional Center. On October 18, 1989, Claimant was transferred to Hill Correctional Center in Galesburg, Illinois. Prior to the transfer, the State, through its agents, took exclusive possession of the Claimant's personal property and inventoried it. There were eight boxes. When Claimant arrived at Hill Correctional Center, certain personal property was not returned. The State only returned seven boxes. Additionally, on the bus used for the transfer, a guard took Claimant's gold wedding band and gave Claimant a confiscation slip for same.

Before Claimant left Pontiac, Officer Sullivan inventoried the Claimant's possessions. Claimant placed the inventory into evidence. The items that Claimant proved are missing are a trial court transcript, a post-conviction transcript, one dictionary, one blue Big Ben shirt, a pair of blue jeans, two hooded sweatshirts, scotch tape dispenser, two blankets, one sweatshirt, 20 hardcover books, and his wedding ring.

The wedding ring was a gift from his former wife in 1975. It came in a set that his former wife said cost about $900. He did not know the exact value of the ring. He never received it back from the State. 'The dictionary was an American Heritage College Second Edition dictionary. It was $11.95 new in June of 1986. The Big Ben shirt cost

**$8** new in 1987. The two blankets were purchased at the Pontiac commissary for $9.95 each in 1986 or 1987. The blue jeans were Wrangler jeans and were purchased through the Lifer's organization in 1986. Claimant did not know the price. The two hooded sweatshirts came from the Jaycees. They cost **$22** new. One of the lost transcripts was about 1000 pages. Claimant did not know how many pages were in the other transcript. The transcripts cost $1.80 per page. Claimant also did not receive about 18 hardcover books. He gave no value for the books. All of the property had been used by Claimant.

The departmental report shows the inventory for October 18, 1989, when Claimant left Pontiac and the inventory of October 19, 1989, when he arrived at Hill Correctional Center. The inventories acknowledge that two court transcripts, one dictionary, the sweatshirt, the hooded sweatshirts, the jeans, the Big Ben shirt, the blankets, some books and the wedding ring were not returned to Claimant. Claimant made a personal property grievance. **A** September 19, 1990, review letter indicates the State agreed the Claimant's personal property was not handled properly for his transfer from Pontiac to Galesburg. The State tried to pay Claimant $40 for the wedding band. The Claimant refused the $40 as inadequate.

## The Law

The State has a duty to exercise reasonable care to safeguard and return an inmate's property when that property is taken into the State's actual physical possession during transfer from one institution to another or when the institution issues a receipt for certain property. ***Doubling v. State*** (1976), **32** Ill. Ct. Cl. **1.**

The loss or damage of bailed property while in the

possession of a bailee raises a presumption of negligence which the bailee must rebut by evidence of due care. ***Moore v. State*** (1980), **34** Ill. Ct. Cl. **114.**

The facts in this case indicate clearly that the State took the property of Claimant, inventoried it, gave him a receipt for the wedding band, and did not return the property testified to. Clearly a presumption of negligence has arisen which the State has failed to rebut in any way, shape or form. The Claimant has proven the State was negligent by a preponderance of the evidence in not returning the personal property.

The issue of value is more difficult. The Claimant has the burden of proving his damages. Claimant has failed to establish proof as to the fair market value of his lost property, other than in some instances his opinion. Therefore, the Court must place a value on the lost property. *(Wilsonv.* ***State*** (1982), ***35*** Ill. Ct. Cl. 135.)Depreciation is given consideration in determining value. ***(Black v. State*** (1981), 35 Ill. Ct. Cl. 292.) Therefore, the Court finds the following value for the property of Claimant lost by the State and finds same to be the fair market value based on the evidence.

(a) Transcript: The evidence is that one transcript was about 1000 pages and the size of the other transcript was not known. Claimant presented evidence that transcript reproduction costs are $1.80 per page or about $250 per day on the average. Transcripts do not depreciate. Respondent offered no evidence as to size of the transcripts or their value. Placing a value on this loss is very difficult. The court finds that the loss was worth $2,000 which is approximately 1000 pages and a day.

(b) Dictionary: $11.95

(c) Used Big Ben Shirt: $2.00

(d) Used Blue Jeans: $4.00

(e) Two used hooded sweatshirts: $6.00

(f) Two used blankets: $8.00

(g) Sweatshirt: No value.

(h) 18 used hardcover books: $13.50

(i) Wedding ring: $150.00

(j) Scotch tape dispenser: $1.00

It is hereby ordered that the Claimant be, and hereby is, awarded the sum of $2,196.45 in full and final satisfaction of this claim.

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(No. 91-CC-1914—Claimant awarded $228.50.)

ROY L. BRYANT, Claimant, *v.* THE STATE OF ILLINOIS, Respondent.

*Order filed* ***March 4, 1993.***

ROY L. BRYANT, *pro se,* for Claimant.

ROLAND W. BURRIS, Attorney General, for Respondent.

PRISONERS AND INMATES—*prison* ***administrative award may not deprive prisoner*** of *property.* The prison administrative procedure may not make low awards and claim such to he binding, thereby depriving the prisoner of his property.

SAME—***claimant's television destroyed during shipment to another correctional*** *facility—administrative award insufficient—award* ***granted with*** *depreciation* ***deduction.*** In an inmate's claim for a television set which was broken beyond repair during shipment from one correctional facility to another, the $71.25 award granted to the Claimant through the prison administrative procedure was insufficient and deprived the Claimant of his

property, where the Claimant's affidavit indicated that a comparable television would cost **$350,** and the Claimant was therefore awarded an additional **$228.50** which included a deduction for depreciation.

## ORDER

SOMMER, C.J.

This claim is before the Court on a motion by the Claimant for entry of default judgment, due notice having been given, and this Court being fully advised, finds that the Claimant's television set was shipped from the Joliet Correctional Center to the Dixon Correctional Center. When the set arrived at Dixon, it was broken and could not be repaired. The set had been working when delivered to the Joliet authorities for shipment.

The Claimant went through the prison administrative procedures and was awarded $71.25.

This claim is similar to *Hamilton v. State* (91-CC-630). In *Hamilton, supra,* a claim also involving a television set, this Court stated that "The prison administrative procedure may not make low awards and claim such to be binding, thereby depriving the prisoner of his property."

The Claimant has responded by affidavit to an order of this Court asking the cost of comparable television set and the whereabouts of the $71.25.

This Court finds that the Claimant in his affidavit stated that a comparable television set would cost $350. We also find that the Claimant requested $300 total in his administrative proceeding and in his complaint to this Court. The Claimant has been paid the $71.25.

We will award the Claimant $228.50. This amount, in addition to the $71.25 already received, will give the Claimant a total award of $300. As in the *Hamilton* claim,

this Court will deduct an amount for depreciation. In this claim, the depreciation will be considered the difference between the $350 which the Claimant stated under oath that a comparable set cost and the $300 total he previously requested. It is therefore ordered that the Claimant is awarded $228.50.

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(No. 91-CC-3235—Claimant awarded $1,390.93.)

JOHN C. TAYLOR LAW OFFICE, Claimant, *v.*
THE STATE OF ILLINOIS, Respondent.

*Orderfiled December 18, 1992.*

*Orderfiled* ***April*** **1, 1993.**

PHEBUS, TUMMELSON, BRYAN & KNOX, for Claimant.

ROLAND W. BURRIS, Attorney General (LAWRENCE C. HIPPE, Assistant Attorney General, of counsel), for Respondent.

STIPULATIONS—*attorney's* ***claim*** for *fees—award granted pursuant to parties' joint stipulation.* After the Claimant's motion for summary judgment on the issue of liability was granted in his claim seeking payment of attorney fees from the State, stemming from the Claimant's representation of a client against the University of Illinois in a case where the State Universities Retirement System claimed subrogation in the amount of $6,954.66, the Court of Claims awarded the Claimant attorney $1,390.93 in full satisfaction of his claim pursuant to the parties' joint stipulation for settlement.

ORDEK

MONTANA, C.J.

This cause comes on to be heard on the Claimant's motion for summary judgment or, in the alternative, judgment on the pleadings, and the Respondent's motion to dismiss, due notice having been given, and the Court

being advised, finds:

The underlying facts of this case are reported in ***Taylor v. State Universities Retirement System, 203*** Ill. App. 3d 513, and need not be reiterated here. Claimant filed the action at bar to recover based on the liability found by the circuit court of the county of Champaign and affirmed by the appellate court of the fourth district.

The Respondent moved for dismissal on the grounds that the claim is barred by the statute of limitations. It is the Respondent's position that the cause of action accrued no later than August 23, 1985, when the Respondent was tendered the repayment of disability benefits.

For the reasons stated in Claimant's objection to the motion, the motion to dismiss will be denied. The cause of action at bar sounds in enforcement of decisions on administrative review by the circuit and appellate courts and the mandate did not issue until March 5, 1991. The complaint in the case here was filed April **26,** 1991. To argue otherwise, that the cause of action accrued on August 23, 1985, is to argue in effect that the other court system had no jurisdiction. This issue was fully litigated and decided in the Claimant's favor.

**As** for the Claimant's motion, we find that there are no material issues of fact and that Claimant is entitled to judgment as a matter of law on the issue of liability. **As** for the amount of liability, the record is insufficient for the Court to make a determination. The appellate court decision did not affirm liability for a specific amount. The record only shows what the Claimant's demand was. If, after this decision, the parties are unable to agree on an amount, the Court will hold a hearing and order the Respondent to pay the amount the Court finds due.

It is hereby ordered that the motion to dismiss is denied and the Claimant's motion is granted as to liability only.

ORDER

PATCHETT, J.

This cause comes before the Court on the parties' joint stipulation for settlement which states:

This claim arises from Claimant's representation of Jess Burwell against the University of Illinois in which the State Universities Retirement System claimed subrogation in the amount of $6,954.66.

The parties have investigated this claim, and have knowledge of the facts and law applicable to the claim, and are desirous of settling this claim in the interest of peace and economy.

Both parties agree that an award of $1,390.93 is both fair and reasonable. This sum represents 20% of $6,954.66.

Claimant agrees to accept, and Respondent agrees to pay Claimant, $1,390.93 in full and final satisfaction of this claim and any other claims against Respondent arising from the events which gave rise to this claim.

The parties hereby agree to waive hearing the taking of evidence and the submission of briefs.

This Court is not bound by such an agreement but it is also not desirous of creating or prolonging a controversy between parties who wish to settle and end their dispute. Where, as in the instant claim, the agreement appears to have been entered into with full knowledge of the facts and law and is for a just and reasonable amount,

we have no reason to question or deny the suggested award.

It is hereby ordered that the Claimant be awarded **$1,390.93,** in full and final satisfaction of this claim.

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(*No.* 91-CC-3394—Claim dismissed.)

**HELEN ZELLERS,** Claimant, *v.* **THE STATE OF ILLINOIS,** Respondent.

*Order filed* ***November*** 6, 1992.

LOUIS E. OLIVERO, for Claimant.

ROLAND W. BURRIS, Attorney General (*VANESSA* V. ALEXANDER, Assistant Attorney General, of counsel), for Respondent.

EXHAUSTION OF ***REMEDIES—exhaustion of*** *all other* ***remedies required before seeking*** *determination* ***in Court of Claims.*** Pursuant to section ***25*** of the Court of Claims Act and section 790.60 of the Court of Claims Regulations, any person who files a claim before the Court of Claims shall, before seeking final determination of his claim by the Court. exhaust all other remedies and sources of recovery whether administrative, legal or equitable.

***NEGLIGENCE—personal injury action dismissed*** *for* ***failure to exhaust remedies.*** The Claimant's action requesting damages for personal injuries allegedly sustained due to improper maintenance and chemical testing of a whirlpool at a State-owned resort was dismissed for failure to exhaust other remedies where, prior to seeking redress against the State in the Court of Claims, the Claimant did not file suit against the lessee who had the duty to maintain the premises.

ORDER

JANN, J.

This cause coming on to be heard on Respondent's motion to dismiss, due notice having been given, Claimant having failed to respond, and the Court being fully

advised in the premises finds:

Claimant herein seeks damages for personal injuries allegedly sustained in a whirlpool at Illinois Beach Resort and Conference Center, Zion, Lake County, Illinois, on April 29 and 30, 1990. Claimant alleges injuries due to improper maintenance and chemical testing of the whirlpool.

On April 29 and 30, 1990, there was in effect a concession lease between the State of Illinois Department of Conservation and Lotteo S. Balaco for premises commonly known as the Illinois Beach Lodge at the Illinois Beach State Park Resort and Conference Center. The lease provides that:

"lessee has the right, privilege and duty to equip, operate and maintain the * * * entire lodge, including public lobby/lounge and restrooms, restaurant, meeting rooms, covered pool, tennis courts, and lodge guest parking lot and paved delivery areas, together with the land areas surrounding the physical perimeter of these facilities * * *" (Concession Lease, page 1).

Nowhere in the lease is the whirlpool excepted from lessee's responsibilities.

Section 25 of the Court of Claims Act (Ill. Rev. Stat. 1989, ch. 37, par. 439.24—5) and section 790.60 of the Court of Claims Regulations (Ill. Adm. Code 790.60) require that any person who files a claim before the Court of Claims shall, before seeking final determination of his claim by this Court, exhaust all other remedies and sources of recovery whether administrative, legal or equitable.

Claimant has failed to file suit against the lessee, Lotteo S. Balaco. By not pursuing any remedy which may have been derived from Lotteo S. Balaco, Claimant has failed to comply with section 25 of the Court of Claims Act and section 790.60 of the regulations of this Court. Section 790.90 of the Court of Claims Regulations provides that failure to comply with the provisions of section

790.60 shall be grounds for dismissal. See *Patton v. State* (1988), 41 Ill. Ct. Cl. 78, 79.

The motion of Respondent is hereby granted, and the claim herein is dismissed with prejudice.

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(No. 91-CC-3926—Claimant awarded $6,002,615.13.)

MIDWEST CONSTRUCTION CO., Claimant, *v.*
THE STATE OF ILLINOIS, Respondent.

***Agreed Order filed December 14, 1992.***

QUERREY & HARROW, LTD., for Claimant.

ROLAND W. BURRIS, Attorney General (PAUL G. ARVITES, Assistant Attorney General, of counsel), for Respondent.

STIPULATIONS—*agreed order for entry of judgment—Claimant awarded $6,002,615.13 subject to terms of liquidating agreement.* Pursuant to a liquidating agreement and agreed motion for the entry of judgment entered into by the parties which provided for the entry of a consent judgment in favor of the Claimant construction company and against the Respondent Capital Development Board in the amount of $6,002,615.13, the Court of Claims entered the judgment as requested, subject to the terms and conditions of the liquidating agreement.

## AGREED ORDER

MONTANA, C.J.

This cause coming on to be heard pursuant to the agreed motion for the entry of judgment of the parties for the entry of a consent judgment and the Court having been apprised of the parties' liquidating agreement dated September 25, 1992, filed herein with the agreed motion, the Court being otherwise fully advised in the premises, and the Court not being obligated to recognize the agree-

ment of the parties but finding their agreement to be appropriate and based upon Respondent's representation that such agreement is fair and reasonable and is in the best interest of the State of Illinois and based upon Claimant's representation that it understands it is the intention of the parties to the agreement that in the event of the dismissal of the A/E action, as defined in the agreement, based upon a determination and adjudication on the merits of the State's and Epstein Civil Engineering, Inc.'s, respective rights and obligations under the A/E agreement, as defined in the agreement, then Claimant may not reinstate the A/E action against the State;

Now therefore, it is hereby ordered that judgment is entered against the Respondent and in favor of the Claimant in the amount of **$6,002,615.13,** subject to the terms and conditions of the liquidating agreement.

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(No. **92-CC-2412—Claimant awarded $7,392.89.)**

**GERALDINE G. THOMAS,** Claimant, *v.* **THE** BOARD **OF TRUSTEES OF THE STATE COMMUNITY COLLEGE** OF **EAST ST. LOUIS,** Respondent.

*Order filed October* 2, 1992.

*Opinion filed March 4, 1993.*

**HARRY** J. STERLING, for Claimant.

ROLAND **W.** BURRIS, Attorney General (LAWRENCE C. RIPPE, Assistant Attorney General, of counsel), for Respondent.

LAPSED APPROPRIATIONS—*claim for interest—award assessable only until end of lapse period.* **Where a Claimant is seeking an award** of **interest from the State, interest is assessable only until the end of the lapse period when the contracting agency could have paid.**

STIPULATIONS—*lapsed appropriation claim for back salary and interest—award granted pursuant to parties' stipulation.* In a lapsed appropriation claim filed by a State community college employee requesting back salary owed in addition to interest, although upon initial consideration of the parties' stipulation as to the amount of principal and interest owed, the Court of Claims awarded only the principal amount because the Claimant's complaint sought interest for a period extending beyond the end of the eligible lapse period, the Court subsequently awarded the Claimant the amount of interest to which the parties stipulated since it determined that the stipulated amount actually reflected the amount of interest which accrued during the eligible lapse period.

## ORDER

SOMMER, C.J.

This cause coming to be heard on the stipulation of the parties, due notice having been given, and this Court being fully advised, finds that this Court, though encouraging amicable settlements of disputes, is not bound by the stipulation of the parties. Additionally, this Court finds that the stipulation before us contains a claim for interest which does not appear to be calculated according to the statutes and precedents of this Court. (*O.K. Electric* Co. *v.* ***State*** (1984), 39 Ill. Ct. Cl. 155.)It is therefore, ordered that the Claimant be paid $6,905.89, the amount of the principal, from fund 001-68501-1800-00-00-91, sufficient funds having lapsed, and the Claimant may petition the Court for interest owed, if any, in accordance with the statutes and precedents of this Court.

## OPINION

SOMMER, C.J.

This claim arises from a dispute between the Claimant, Geraldine Thomas, and her employer, the State Community College of East St. Louis, over salary due to the Claimant.

The parties settled the dispute by an agreement

dated June 12, 1991. This agreement, because it required a funds transfer, had to be approved by the Illinois Community College Board. Approval was not secured before the end of the lapse period, September 30, 1991.

The Claimant then filed a lapsed appropriation claim in this Court, requesting interest in addition to the amount of the back salary owed. The parties then stipulated to an award for back salary and interest. On October 2, 1992, this court approved the stipulation for the back salary owed in the amount of $6,905.89, but withheld approval of the interest of $487.

This Court had previously cited the case of *O.K. **Electric** Co. v. **State*** (1984), 39 Ill. Ct. Cl. 155, to the parties to illustrate the proposition that interest is assessable only so long as the contracting State agency has the ability to pay; *i.e.*, until the end of the lapse period of the fiscal year in which the contract was made. The Claimant rightly points out that the *O.K. **Electric*** Co. claim involved failure to submit a bill on time. However, in the case of *Branch-Nicoloff v. **State*** (1988), 40 Ill. Ct. Cl. 252, the General Assembly failed to pay a claim previously approved by this Court. The Claimant requested interest for the period until the next General Assembly could pay the claim. This Court again held that interest is assessable only until the end of the lapse period when the contracting State agency could have paid.

In this claim, underpayments occurred throughout the period used to calculate the award—July 1, 1990, to August 15, 1991. This period is wholly within F.Y. 91 and the lapse period. A technical argument could be made that the underpayments from July 1, 1991, to August 15, 1991, were within F.Y. 92, but in this case this Court finds that the agreement created an F.Y. 91 obligation. Addi-

tionally, this Court takes the view that in this claim interest would begin to run after each underpayment, as the settlement simply reflected the underpayments. We recognize that the date interest begins to accrue must be determined on a case by case basis.

The amended complaint filed on August 4, 1992, requests interest until August 15, 1992. As we have shown, interest can only be paid up to August 15, 1991. It was the 1992 date, which cannot be used, that occasioned this Court's inquiry into the interest. Interest on a differential monthly progression is a cumbersome calculation, but a rough approximation by this Court of the interest due up to August 15, 1991, yields a figure similar to the amount stipulated by the parties. In the interest of amicable settlement of dispute, this Court will award the amount stipulated. It is therefore ordered that the Claimant be paid $487 for interest pursuant to the stipulation entered by the parties.

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(No. 92-CC-2601—Claimant awarded $12,218.53.)

FICEK ELECTRIC & COMMUNICATION SYSTEMS, Claimant, *v.* THE STATE OF ILLINOIS, Respondent.

*Opinion filed September 1, 1992.*

JOHN BALESTRI, for Claimant.

ROLAND W. BURRIS, Attorney General (CYNTHIA WOOD, Assistant Attorney General, of counsel), for Respondent.

STIPULATIONS—*contract to relocate telephone system—lapsed appropriation claim-award granted hut stipulation as to interest not approved.* In a lapsed appropriation claim seeking payment allegedly due the Claimant under a contract with the State to relocate a telephone system, where the

State filed a stipulation agreeing to an award in the **full** amount sought, the Court of Claims refused to approve that portion of the stipulation agreeing to award the Claimant interest pursuant to the Prompt Payment Act, since the State's authority to expend from the appropriation from which the interest was to be paid expired prior to the date the interest penalty was triggered under the Act.

OPINION

**MONTANA,** C.]

Claimant Ficek Electric and Communication Systems (Ficek) brought this claim seeking payment of $13,225.70 for service, material, and interest pursuant to a contract with the Respondent's Department of Central Management Services (CMS) to relocate a telephone system. In its standard lapsed appropriation form complaint, Ficek alleged that it made demand for payment but its demand was refused on the grounds that the funds appropriated for such payments had lapsed. The Respondent filed a stipulation agreeing to our making an award in the full amount sought. The stipulation is now before us for approval.

This Court is not bound by such stipulations and it cannot acquiesce in approving *in toto* the one at bar insofar as it would have us make an award for interest.

The facts, as they relate to the interest issue, are found to be as follows. The contract giving rise to this claim was entered into on June 28, 1991, the last business day of the State's fiscal year. Payment was not due until the work was performed or the invoice was received, whichever occurred later. The departmental report which was compiled by CMS and offered as *primafacie* evidence of the facts contained therein in support of the stipulation, pursuant to 74 Ill. Adm. Code 790.14, states at paragraph 8 that the work was completed sometime in August of 1991. The invoice attached to Ficeks complaint

bears a date of August 28, 1991. Also attached to Ficeks complaint was a separate invoice for an interest penalty. On that invoice interest was sought at the rate of 2% per month, compounded monthly, for the period of December 1,1991, through the end of March 1992.

Although not specifically stated in the complaint, stipulation, or departmental report, it appears from the percentage rate of interest charged that the interest is claimed pursuant to the State Prompt Payment Act (Ill. Rev. Stat., ch. 127, par. 132.401 *et seq.*), hereinafter referred to as the Act. Section 3—1 of the Act was amended effective January 1,1988, so as to provide that

"The Court of Claims shall, in its investigation of payments due claimants, provide for interest penalties as prescribed in this Act."

The procedures set forth in the Act as to how the interest penalty is triggered are complicated and are particularly directed at agencies entering into purchase agreements. The statutory scheme is not easily transferred to the procedures of litigation in the Court of Claims. No specific guidance was provided in the 1988 amendment to the Act as to when interest is to begin to accrue or stop on claims in this Court. Therefore, the Court will interpret the amendment strictly. The Court will provide for interest in its awards to the extent that the Act would require the respondent agencies to pay interest. The issue in each case, therefore, is whether and to what extent the agency may pay the interest.

In general, the Act provides a time period within which a bill must be paid or disapproved by the purchasing agency and if not paid or disapproved within that period, the interest penalty is potentially triggered. In the case at bar, the record shows that such period started no earlier than August 28, 1991, the date of the invoice for the principal. The bill was payable from the Communica-

tions Revolving Fund, appropriation line item No. **312-**41655-1700-0000, as shown in paragraph 8 of the CMS report. The earliest date that the interest penalty could be triggered would be 45 days after August 28, 1991, pursuant to section *3* of the Act. This point in time would be beyond the ability of CMS to make the payment. The Act at section 3—1 requires that interest shall be paid by separate warrant from the same appropriation line item as that from which the principal is paid. CMS' authority to expend from that line item appropriation expired on September **30,** 1991, less than 45 days from August 28, 1991. (Ill. Rev. Stat., ch. 127, par. 161.) Because CMS could not have been required to pay interest on the bill under the terms of the Act, this Court will not make such an award.

To hold otherwise would potentially enable nearly any provider of goods or services to the State to simply wait until the statute of limitations (which on contracts in the Court of Claims is five years) was about to run while interest was accruing at 24% per annum before filing the claim here and then obtain an exorbitant windfall. While not an extreme case, the Ficek claim is illustrative of the potential. Ficek claims interest accruing from December **1,** 1991, and did not file its claim until the end of March, 1992. There was no way payment could have been made during that time and the interest it would have the State pay would amount to approximately $1,000.

Moreover, the principal is payable from the Communications Revolving Fund. The Court of Claims does not have access to such money and could pay neither awards of principal nor interest as required by section **3—1** of the Act until such later time as money from that fund is appropriated to fund such awards in what is known as the Court of Claims special awards bill.

The clear purpose of the Act is to provide for prompt payment by the State's agencies. That purpose will not be furthered by providing awards of interest after the ability to make the payment no longer exists and we do not read anything in the Act to require otherwise.

Accordingly, it is hereby ordered that the Claimant be, and hereby is, awarded the sum of $12,218.53, and no interest, in full and final satisfaction of this claim.

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(No. 93-CC-0101—Claimant awarded $629.26.)

**DRF REALTY, INC.,** Claimant, *v.* **THE STATE OF ILLINOIS, Respondent.**

***Order filed April 6, 1993.***

DRF REALTY, INC., ***pro se,*** for Claimant.

ROLAND W. BURRIS, Attorney General (SEBASTIAN DANZIGER, Assistant Attorney General, of counsel), for Respondent.

CONTRACTS—*payments due* **under** *tax escalation clause in lease are current obligation of fiscal year in which* **they** *become due.* Payments due pursuant to a tax escalation clause in a lease are current obligations **of** the fiscal year in which they become due.

LAPSED APPROPRIATIONS—*claim* for *money due* **under** *lease tax escalation clause—award granted pursuant to stipulation.* Pursuant to the parties' stipulation, the Claimant realty company was awarded $629.26 in one of three claims requesting money due under a tax escalation clause in a rental agreement **for** property utilized by the State since, with regard to that claim, the tax bills were payable by the Claimant in the fiscal years during which the State would have owed under the tax escalation clause and sufficient funds lapsed to cover the obligation, but with respect to the other claims, the stipulations were not approved because there **was** insufficient evidence to determine when the payments were due.

ORDER

**BURKE, J.**

Claimant DRF Realty, Incorporated (DRF) brought these claims seeking money due pursuant to a tax escalation clause in a rental agreement for property utilized by the Respondent's Department of Employment Security (DES). In its standard lapsed appropriation form complaints, DRF alleged that it made demands for payment but the demands were refused on the grounds that the funds appropriated for such payments had lapsed. The Respondent filed stipulations agreeing to entry of awards in the full amount sought. The stipulations are now before us for approval.

The Court of Claims is not bound by such stipulations. In these cases we are unable to approve all of the stipulations for the following reason.

In *La Salle National Bank v. State* (1991), 43 Ill. Ct. Cl. 266, we held that payments due pursuant to tax escalation clauses in leases were current obligations of the fiscal year in which they became due. Neither party filed a copy of the lease agreement in this case so we do not know exactly when payments were due. We do know from the copies of the tax bills attached to the complaints that the bills were not payable in the fiscal years for which the Respondent provided data in its departmental reports, *e.g.*, in 93-CC-0099, the tax bills indicate that payment was to be made in the first installment during fiscal year 1990 and the second installment was due in fiscal year 1991, but the report contains information relating to fiscal year 1989.

We are, however, able to approve the stipulation in 93-CC-0101. The bills in that case were payable by the

Claimant in fiscal years 1988 and 1989 and the Respondent would have owed pursuant to the tax escalation clause during one or both of those years. From the reports in 93-CC-0099 and 0100 we see that sufficient funds lapsed to cover the obligation.

It is hereby ordered that the Claimant be, and hereby is, awarded $629.26 in claim No. 93-CC-0101; it is further ordered that the Respondent review the lease agreement to determine in which fiscal year the obligation to pay arose in 93-CC-0099 and 93-CC-0100 and file amended reports in those cases. The parties are advised that payment of any awards made in these claims will require legislative approval, so Respondent is to provide the information at the earliest possible date.

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(No. 93-CC-0147—Claimant awarded $300.)

DEWEY C. DENNINGTON, Claimant, *v.* THE **STATE** OF ILLINOIS, Respondent.

*Orderfiled* ***November*** 17, *1992.*

***Stipulation filed December*** *1,* ***1992.***

*Orderfiled* ***February*** *19,1993.*

**DEWEY C.** DENNINGTON, *pro se*, for Claimant.

ROLAND W. BURRIS, Attorney General (LAWRENCE C. RIPPE, Assistant Attorney General, of counsel), for Respondent.

LIMITATIONS—*notice of* ***unclaimed security*** *deposits—when* ***claim must be filed in Court of Claims to avoid escheat to*** *State.* Pursuant to ch. 95½, par. 7—503 of the Illinois Revised Statutes, after notice of an unclaimed security deposit is mailed by the Secretary of State to the depositor advising him that his deposit will escheat to the State if not claimed within 30 days after the mailing of such notice, the two-year statute of limitations on a claim

for return of the deposit through the Court of Claims does not begin to run until 30 days after the notice is sent since the Court is not vested with jurisdiction over such claims until that time.

SAME—*driver required to post deposit as evidence of financial responsibility—motion to dismiss claim for refund denied.* The Court of Claims denied the State's motion to dismiss a driver's claim seeking the return of his financial responsibility security deposit which he posted after being involved in a traffic accident since, although the State maintained that the applicable statute of limitations had expired, the argument was without merit where the driver's claim was filed within two years and 30 days after the Secretary of State mailed notice pursuant to ch. 95½, par, 7—503 of the Illinois Revised Statutes.

*LAPSED APPROPRIATIONS—refund of financial responsibility security deposit—stipulation by State to entry of award.* In a lapsed appropriation claim requesting the refund of the Claimant's $300 financial responsibility security deposit which he was required to post after his involvement in a traffic accident, the State stipulated to entry of the $300 award, and the Court granted the award in accordance with the stipulation.

ORDER

MONTANA, C.J.

This cause comes on to be heard on the Respondent's motion to dismiss, due notice having been given, and the Court being advised, finds:

On October 24, 1986, the Claimant was involved in a motor vehicle accident and was subsequently required to post $300 for deposit with the Secretary of State as evidence of financial responsibility in accordance with Ill. Rev. Stat., ch. 95½, par. 7—204. His deposit was accepted on July 1, 1987. On July 24, 1992, he filed this claim seeking a refund of the deposit.

The Respondent filed the motion at bar seeking dismissal on the grounds that the applicable statute of limitations has expired. In support of its motion, Respondent filed several documents from Claimant's file with the Secretary of State's Office as a departmental report under 74 Ill. Adm. Code 790.140. The documents show that the

Claimant was mailed notice of eligibility for return of the deposit on November 22, 1988. This notice, Respondent argues, began the running of the statute of limitations. The applicable statute of limitations is the two-year period provided in section 22(h) of the Court of Claims Act (Ill. Rev. Stat., ch. 37, par. 439.22(h)). Respondent concludes that the two years expired on November 22, 1990, and thus the claim is barred.

We disagree. The Secretary of State documents also show that the Claimant was mailed another notice on July 1, 1991. This notice stated that he had 30 days within which to perfect a claim for the refund with the Office of the Secretary of State. The notice on its face states that it was made pursuant to Ill. Rev. Stat., ch. 95½, par. 7—503. That statute reads as follows:

**7—503.** Unclaimed security deposits

"§ 7—503. Unclaimed security deposits. During July, annually, the Secretary shall compile a list of all securities on deposit, pursuant to this Article, for more than 3 years and concerning which he has received no notice as to the pendency of any judicial proceeding that could affect the disposition thereof. Thereupon, he shall promptly send a notice by certified mail to the last known address of each depositor advising him that his deposit will he subject to escheat to the State of Illinois if not claimed within 30 days after the mailing date of such notice. At the expiration of such time, the Secretary of State shall file with the State Treasurer an order directing the transfer of such deposit to the general revenue fund in the State Treasury. Upon receipt of such order, the State Treasurer shall make such transfer, after converting to cash any other type of security. Thereafter any person having a legal claim against such deposit may enforce it by appropriate proceedings in the Court of Claims subject to the limitations prescribed for such Court. At the expiration of such limitation period such deposit shall escheat to the State of Illinois."

According to Respondent's position, the statute of limitations would have run before this notice was sent and the language of the quoted statute is a nullity.

We agree that the statute of limitations on this type of claim is two years, but we hold that it does not begin to run until 30 days after the section 7—503 notice is sent.

Until that time the Secretary of State can make the refund. Prior to that time, any claim in the Court of Claims would be premature. This statute provides the Court's jurisdiction over such claims and it expressly gives the Court jurisdiction only after the expiration of the 30-day notice period.

It is hereby ordered that the motion to dismiss be, and hereby is, denied.

STIPULATION

This is a lapsed appropriation claim. The State agrees to an entry of an award based on the report filed in this matter which provides the following information:

Agency: Secretary of State
Purpose: Refund Safety Responsibility Deposit
Fund No.: General Revenue Amount: **$300.00**
Claimant's social security or tax No.: **427-26-5829**

Sufficient funds lapsed to cover this claim.

ROLAND W. BURRIS
ATTORNEY GENERAL OF ILLINOIS

ORDER

**FREDERICK,** J.

The record in this cause indicates that this is a standard lapsed appropriation claim which should be paid in accordance with the above stipulation. This payment is made in full and final satisfaction of this claim. It is so ordered.

(No. 93-CC-2667—Claim denied.)

In re APPLICATION OF LINDA A. (DANIELS) REININGER

*Opinion filed June* 29,1993

LINDA A. (DANIELS) REININGER, *pro* se, for Claimant.

ROLAND W. BURRIS, Attorney General (ROBERT J. SKLAMBERG, Assistant Attorney General, of counsel), for Respondent.

"*POLICE AND FIREMEN—precondition to recovery under Law Enforcement Officers and Firemen Compensation Act—killed in line of duty.* A precondition to the granting of compensation under the Law Enforcement Officers and Firemen Compensation Act is that the law enforcement officer have been killed in the line of duty, and the term "line of duty" excludes death resulting from willful misconduct or intoxication of the officer.

SAME—*officer intoxicated at time of auto accident resulting in his death-claim denied.* A police officer who died from injuries sustained when he drove his unmarked police car into the rear of a truck was not "killed in the line of duty" as required by the Law Enforcement Officers and Firemen Compensation Act, where he had a blood-alcohol concentration of .207 at the time of his death, and a claim by the officer's widow under the Act was therefore denied.

## OPINION

FREDERICK, J.

This claim is before the Court by reason of the death of Roy E. Reininger, who was a detective with the Village of Schaumburg Police Department. Detective Reininger's widow, Linda A. (Daniels) Reininger, seeks compensation pursuant to the terms and provisions of the Law Enforcement Officers and Firemen Compensation Act (Ill. Rev. Stat. 1991, ch. 48, par. 281 *et seq.*).

The Court has carefully considered the claim for death benefits submitted herein, together with the written statement of Detective Reininger's supervising officer and documentation submitted therewith, the medical

examiner's certificate of death, autopsy report, case report, the decedent's designation of beneficiary form, and the report of the Attorney General.

The instant claim was filed herein on April 9, 1993, by Linda A. (Daniels) Reininger, widow of Roy E. Reininger, who died on December 31,1992, while a detective with the Village of Schaumburg Police Department.

The record reveals that Detective Reininger was killed on December 31, 1992, when he drove an unmarked police car into the rear of a truck on Schaumburg Road at its intersection with Branchwood Drive in the Village of Schaumburg, Illinois. Detective Reininger was pronounced dead on December 31, 1992, at Humana Hospital of Hoffman Estates. The certificate of death indicates that the cause of death was multiple injuries due to an automobile-truck collision.

Detective Reininger is survived by his wife, Linda A. (Daniels) Reininger, the Claimant herein, and she was named as the sole beneficiary of any benefits payable under the Law Enforcement Officers and Firemen Compensation Act (Ill. Rev. Stat. 1991, ch. 48, par. 281 *et seq.).*

A precondition to the granting of compensation under the Law Enforcement Officers and Firemen Compensation Act, *supra,* is that the law enforcement officer have been "killed in the line of duty." (Ill. Rev. Stat. 1991, ch. 48, par. 282(e).) The Act further dictates that, "The term (killed in the line of duty) excludes death resulting from willful misconduct or intoxication of the officer * * * "

According to Captain Casler's statement of supervising officer and the toxicology analysis attached to the

autopsy report, Detective Reininger liad a blood-alcohol concentration of .207 at the time of his death. Since this exceeds the limit for the legal definition of intoxication, it appears that Detective Reininger was not "killed in the line of duty" as required by the Law Enforcement Officers and Firemen Compensation Act.

It is therefore ordered that the claim of Linda A. (Daniels) Reininger for compensation under the Law Enforcement Officers and Firemen (Compensation Act, *supra,* be, and hereby is, denied.

---

(Nos. 92-CC-3321 through 92-CC-3328; 92-CC-3342—Claims dismissed.)

ST. THERESE MEDICAL CENTER, Claimant, *v.*
THE STATE OF ILLINOIS, Respondent.

Opinion filed *November* 24, 1992.

ST. THERESE MEDICAL CENTER, ***pro se,*** for Claimant.

ROLAND W. BURRIS, Attorney General (CYNTHIA J. WOOD, Assistant Attorney General, of counsel), for Respondent,

PUBLIC AID CODE—*vendor-payment* claims—invoice submittal requirements. Pursuant to the rules of the Illinois Department of Public Aid and corresponding Federal regulations, a medical provider's vendor-payment claim, to be eligible for payment consideration either as an initial or resubmitted invoice following prior rejection, must be received by the Department no later than 12 months from the date on which medical goods or services are provided, and invoices which do not comply with this requirement are not eligible for payment under the Department's Medical Assistance Program.

VENDOR-PAYMENT CLAIMS—hospital failed *to* comply with one-year invoice submittal *deadline—claims* dismissed. A hospital's claims under section 11—13 of the Public Aid Code seeking payment of charges relating to nine different patient accounts were dismissed since, in each case, the invoice supporting the vendor-payment claim was received by the Department of Public Aid more than one year following the date on which the ser-

vices were rendered, and *two* of the claims had been previously barred in any event for failure to commence the **actions** within the time prescribed by statute.

## OPINION

SOMMER, J.

These nine Court actions were filed pursuant to the "law or regulation" provisions of section 439.8(a) of the Court of Claims Act (or "CCA") (Ill. Rev. Stat. 1991, ch. 37, par. 439.8(a)) and section 11—13 of the Public Aid Code (or "PAC") (Ill. Rev. Stat. 1991, ch. 23, par. 11—13). The common issue presented in these vendor-payment actions is whether Claimant hospital's complaints have established a *prima facie* right to receive payment, under the Medical Assistance Program (MAP) administered by the Illinois Department of Public Aid (IDPA), of charges relating to any of nine patient accounts. Respondent has moved for judgment on the pleadings in each of these actions (pursuant to section 2—615(e) of the Code of Civil Procedure (Ill. Rev. Stat. 1991, ch. 110, par. 2—615(e))), contending that none of the complaints establishes a *prima facie* right to payment, because in none of these instances does Claimant show that it had complied with the one-year invoice submittal deadline imposed upon medical vendors by IDPA Rule 140.20 (89 Ill. Adm. Code $140.20, reprinted in Topic 141 of IDPA's MAP ***Handbook For*** *Hospitals)* and by Federal Medicaid regulation (42 C.F.R. §447.45(d)). Respondent also contends that Claimant's causes of action as to two accounts (Nos. 92 CC 3328 & 92 CC 3342) had previously been barred from prosecution in this Court at the time said claims were filed herein. For reasons explained in this opinion, the Court agrees with Respondent's contentions.

The patient names and related dates of service com-

prising these eight outpatient (OP) and single inpatient (IP) accounts, the dates on which Claiimant submitted its related form **UB-82** invoices (presenting its account charges) to IDPA, the dates on which the Department received those invoices, and the dates of IDPA's refusal-to-pay notices to Claimant, were as follows:

| Patient Account/ Date(s) of Service (DOS) | Claimant's UB-82 Invoice Submittal Date, as alleged/ Date Invoice Received by IDPA | Date of IDPA's §11—13 Payment-Refusal Notice |
|---|---|---|
| Castillo (OP), No. 92 CC 3324 DOS: August 21, 1990 | submitted October 30, 1991 received November 7, 1991 | Dec. 5, 1991 |
| Cofield (OP), No. 92 CC 3322 DOS: March 7, 1991 | submitted March 4, 1992 received March 11, 1992 | April 6, 1992 |
| Ford (IP), No. 92 CC 3328 DOS: September 12-16, 1990 | submitted October 22, 1991 received October 24, 1991 | Nov. 26, 1991 |
| Home (OP), No. 92 CC 3326 DOS: January 25, 1991 | submitted January 25, 1992 received February 5, 1992 | Feb. 14, 1992 |
| King (OP), No. 92 CC 3323 DOS: January 12, 1991 | submitted January 25, 1992 received February 5, 1992 | Feb. 14, 1992 |
| Kirby (OP), No. 92 CC 3342 DOS: December 14, **1989** | submitted April 25, 1991 received **April 29, 1991** | May 28, 1991 |
| Kuykendall (OP), No. 92 CC 3325 DOS: November 24, 1990 | submitted January 22, 1992 received January 29, 1992 | Feb. 11, 1992 |
| Quijada (OP), No. 92 CC 3327 DOS: November 19, 1990 | submitted January 30, 1992 received February 7, 1992 | Feb. 18, 1992 |
| Quijada (OP), No. 92 CC 3321 DOS: November 23, 1990 | submitted January 30, 1992 received February 7, 1992 | Feb. 18, 1992 |

In each instance, Claimant alleges a single invoice in support of its Court claim. And in each case, that invoice **(a)** had been received by the Department more than one year following the date on which the services had been rendered; and (b) was refused payment with the rejection-notice .message advising Claimant that IDPA "will not consider for payment any UB **82** received for charges more than 12 months from the date of service." *(Handbook For Hospitals*, App. **H-15.)**

Subsections (c) and (d) of IDPA Rule 140.20 provide as follows:

"(c) To be eligible for payment consideration, a [medical vendor's] vendor-payment [administrative] claim or bill [i.e., invoice], either as an initial or resubmitted [invoice] following prior rejection, must be received by [IDPA], or its fiscal intermediary, no later than twelve (12) months from

the date on which medical goods or services are provided.

(d) [Invoices]which are not submitted and received in compliance with the foregoing requirements will not be eligible for payment under [IDPA's MAP], and the State shall have no liability for payment thereof."

(89 Ill. Adm. Code $140.20, as amended at 13 Ill. Reg. 7799 through 7801, effective May 20, 1989; and see Topic 141.2 of IDPA's MAP vendor *Handbooks* as amended on June 15,1989.)

The Federal regulation (42 C.F.R. $447.45) imposes a similar deadline, *viz.*, IDPA as Illinois' Medicaid agency "must require [medical vendors] to submit all [invoices] no later than 12 months from the date of service." *(Id.*, §447.45(d), originally published in 44 FR 30344 on May 25, 1979.) Respondent risks its entitlement to Federal Medicaid funding of IDPA's MAP, if compliance with this one-year deadline is not routinely enforced. (See *Peterson v. State* (1990), 43 Ill. Ct. Cl. 347; *Forutan v. State* (1991), 43 Ill. Ct. Cl. 377; *Kim v. State* (1991), 43 Ill. Ct. Cl. 286, and *Lawrie* v. *Illinois Department* of *Public Aid* (1978), 72 Ill. 2d 335, 343-44.) Accordingly, this Court has consistently determined that a vendor-claimant's claim does not merit an award, if the vendor has failed to submit a "clean claim" invoice (42 C.F.K. §447.45(b))—or, as here, *any* invoice—to IDPA, within one year following the date on which the charged services were rendered. *(Good Samaritan Hospital v. State* (1982), 35 Ill. Ct. Cl. 379; *Barnes Hospital v. State,* No. 82 CC 708 (order filed Mar. 1, 1982); *Rock Island Franciscan Hospital v. State,* No. 82 CC 899 (order filed May 3, 1982); *St. Joseph Hospital* v. *State,* No. 82 CC 2440 (order filed Oct. 22, 1984); *Methodist Medical Center v. State* (1986), 38 Ill. Ct. Cl. 208; *Rock Zsland Franciscan Hospital v. State* (1987), 39 Ill. Ct. Cl. 100; *Franciscan Medical Center v. State,* No. 84 CC 118 (opinion filed Feb. 26, 1988); *Pinckneyville Medical Group v. State* (1988), 41 Ill. Ct. Cl. 176; *Treister & Wilcox v. State* (1989), 42 Ill. Ct. CI. 185; *Sarah Bush Lincoln Health*

*Center v. State* (1989), 42 Ill. Ct. Cl. 303; *Ryan v. State* (1990), 43 Ill. Ct. Cl. 213; *Ramubrahmam v. State* (1990), 43 Ill. Ct. Cl. 351; *Peterson, Forutan & Kim,* cited *supra; St. Francis Hospital v. State* (1992), 44 Ill. Ct. Cl. 157; and *Christ Hospital v. State,* No. 92 CC 18 (opinion filed March 24, 1992).) Applying the provisions of IDPA Rule 140.20(d) to the facts here pleaded in support of these nine accounts, the Court concludes that no State liability exists for paying these accounts.

IDPA records show that Claimant had initially submitted a timely invoice, for patient Ford's September 12-16, 1990 inpatient stay (UB-82 submitted Oct. 19, 1990, received on Oct. 26, 1990), which was not here alleged in Claimant's complaint (No. 92 CC 3328). At the time this initial invoice was submitted, Claimant had not previously forwarded a copy of its private-pay charges to **IDPA's** local office for adjudication of Ford's September 1990 spenddown obligation, as required *(Handbookfor Hospitals,* Topics 105 and H-214.2). As a result, Fords MAP eligibility during September 1990 had not been established; and Claimant had not received a Split Billing Transmittal (DPA form 2432) from the local office, to submit with its invoice as verification that Ford's September spenddown obligation had been "met." (See *St. Anthony Hospital Medical Center v. State* (1991), 44 Ill. Ct. Cl. 98.) Further, although Claimant's "10-19-90" invoice had designated these, by the code used, as outpatient services—all performed on "09-12-90," the invoice included charges for surgical and medical procedures reportedly performed on "09-13" and "09-14" as well as "09-12." IDPA cited these deficiencies and inconsistencies in its December 4, 1990 notice, which refused payment of this invoice; and the record here shows that Claimant had not remedied these problems by submitting

a corrected rebill-invoice of its charges for Fords services by September **16, 1991,** as required by IDPA Rule **140.20.**

Respondent further asserts that, under subsection (1) of PAC section **11—13,** the Court lacked jurisdiction to entertain the claim for patient Kirby's services as of June **26, 1992,** when that claim (No. **92** CC **3342)** was filed herein, because IDPA had issued its payment-refusal notice (in response to Claimant's invoice charging for said services) more than one year prior thereto, on May **28, 1991.** Moreover, Claimant was obliged to file its court action as to Kirby's services no later than December **14, 1991** (i.e., within two years following its rendition of those services on December **14,** 1989), in order to avoid the jurisdictional bar imposed by subsection (2) of PAC section **11—13** and CCA section 439.22(b). We conclude that the cause of action presented in No. **92** CC **3342** had previously been barred from prosecution, under both subsections **(1)** and **(2)** of PAC section **11—13** and CCA section **439.22,** when that claim was commenced. (See ***Villalona v. State,*** No. **91** CC **644** (Opinion filed Feb. **19, 1991)** and ***Forutan, Kim; Franciscan Medical Center;*** and ***Pinckneyville Medical Group;*** all cited ***supra.*** Claimant's cause of action **as** to patient Ford was also barred, by PAC section **11—13** subsection (1), because Claimant filed the related court action (No. **92** CC **3328)** on June **26, 1992,** more than one year following the date (Dec. **4, 1990)** of the payment-refusal notice in which IDPA had responded to Claimant's initial invoice of charges for Ford's September **12-16,1990** inpatient services.

It is hereby ordered and adjudged: that Nos. **92** CC **3328** and **92** CC **3342** are dismissed as a result of Claimant's failure to commence those two actions within the time prescribed by statute; and judgment on the

pleadings as to all issues presented in Nos. 92 CC 3321 through 92 CC 3327 inclusive is entered against Claimant, St. Therese Medical Center, and in favor of Respondent, and said seven claims are also dismissed.

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(No. 86-CC-3040—Claim dismissed.)

ROCKFORD UROLOGY ASSOCIATES, LTD., *et al.*, Claimants, *v.* THE STATE OF ILLINOIS, Respondent.

*Opinion filed May 4, 1993.*

DANIEL L. SWIFT, M.D., *pro se*, for Claimants.

ROLAND W. BURRIS, Attorney General (STEVEN SCHMALL, Assistant Attorney General, of counsel), for Respondent.

PUBLIC AID CODE—*purposes of Department of Public Aids Medical Assistance Program.* The purposes of the Illinois Department of Public Aids Medical Assistance Program include the provision of a program of essential medical care and rehabilitative services for persons who are unable, because of inadequate resources, to meet their essential medical needs, and in determining the amount and nature of financial aid which a recipient is to receive, the Department is to consider the income and other resources available to the recipient, with MAP being the payor of last resort as to services for which a third party has primary payment liability

SAME—*Medical Assistance Program payments to medical vendors cannot result in payment exceeding IDPA's approved rates.* The Department of Public Aid is responsible for establishing its Medical Assistance Program rates which determine the amounts to be paid by the Department for physician services when the program recipient has no insurance or other resources with which to compensate the vendor, and where other sources of payment are available, the public Aid Code does not authorize payment by the Department which would result in a total payment from all sources to the vendor of an amount in excess of the Department's approved rate.

VENDOR-PAYMENT CLAIMS—*physicians' claim for charges not covered by private insurer dismissed—insurance payment exceeded amount State would have paid.* Where the Claimant physician group sought payment from the State for the difference between their charges for surgical services performed on a six-year-old public aid recipient and the amount paid to the

group by **a** private insurer, the claim was dismissed, since the amounts previously paid by the insurance company to the Claimant already exceeded the amount which the Department of Public Aid would have paid for such services in the absence of third-party liability coverage.

OPINION

**BURKE,** J.

Dr. Swift served as surgeon, and Dr. Taylor as assistant surgeon, in performing a surgical procedure upon a six-year-old patient, who was then a foster-care (AFDC-F) ward of the Illinois Department of Children and Family Services (DCFS) and a recipient eligible for State-paid medical benefits under the Medical Assistance Program (MAP) administered by the Illinois Department of Public Aid (IDPA). The child also had health coverage available under a group plan with a commercial, "private insurer." (42 C.F.R. $433.136.) The Claimant physicians are here seeking payment from Respondent of the $660 difference between their charges for said surgery and the amounts paid them by the "third party" liability (TPL) insurer (*Id.*). For reasons discussed in our May 24, 1990 decision in ***Guptu v. State,*** 42 Ill. Ct. Cl. 269, IDPA is the appropriate State agency to respond to this claim. IDPA denies all liability for Claimants' residual charges, contending that the dollar amounts already paid Claimants by the TPL insurer were in excess of the amounts which would have been payable under its MAP if the patient had not had said TPL coverage available.

As described in the Public Aid Code (or PAC (Ill. Rev. Stat. ch. 23, par. 1—1 ***et seq.)),*** the purposes of IDPA's MAP include those: of providing "a program of essential medical care and rehabilitative services for * * * persons who are ***unable, because of inadequate resources,*** to meet their essential medical needs" *(Id.,* par. 5—1, emphasis supplied); and of providing "for the develop-

ment, use and coordination of all resources in this State, governmental and private" ***(Id.,*** par. 1—1) in promoting the health and welfare of all Illinois citizens. In determining the "amount and nature of [State-paid] financial aid [including medical assistance]" which a recipient is to receive, IDPA is to give due regard "to the income, money contributions and ***other support and resources available [to the recipient],*** *from* ***whatever source." Id.***, par. **4—2,** emphasis supplied; see also the supreme court's reference to a similar requirement in ***Lawrie v. Illinois Department*** *of* ***Public Aid*** (1978), **72** Ill. 2d **335** at **346.**

In accordance with these statutory guidelines, Topic **122** of IDPA's medical vendor ***Handbooks*** provides that the MAP is "payor of last resort" as to all services for which a third party has primary payment liability. (***Treister & Wilcox v. State*** (1989), **42** Ill. Ct. Cl. **185.)** Thus, Claimants here properly sought and obtained payment from the recipient's insurer before pursuing payment of their residual charges from IDPA. See Social Security Act, Title XIX, §1902(a)(25) **(42** U.S.C. §1396a(a)(25)) and **42** C.F.R. §§433.135 through **433.154.**

The fallacy in Claimants' claim lies in the fact that the amounts paid them by the insurer for their respective services exceeded the amounts (as determined by the MAP's payment rates) which IDPA would have paid for said services, in the absence of such TPL coverage. This Court's opinion in ***Ryan v. State*** (1990), **43** Ill. Ct. Cl. **213,** outlines the process followed by IDPA in establishing the rate which it pays for each service performed by physicians. Such rates determine the amounts which IDPA pays when the recipient has no insurance or other resources with which to compensate the vendor.

If, as the supreme court concluded in *Lawrie v. Illinois Department of Public Aid*, the PAC does not authorize payment by IDPA "which would result in payment [from all sources] to the vendor * * * of an amount in excess of [IDPA's] approved rate" (72 Ill. 2d 347), then no IDPA payment is due once Claimants have received more, from the TPL resource, than the Department's rate alone would have produced. Respondent contends that the same limitation, on IDPA's MAP-payment liability, would result here by applying the payment restrictions imposed by a Federal Medicaid statute. (Subsection (a)(25)(C) of 42 U.S.C. §1396a) and implementing regulations (§§433.139(b)(1) and 447.15 of 42 C.F.R., and 89 Ill. Adm. Code §140.12(h).) We conclude that IDPA has no supplemental payment obligation in this case.

It is therefore hereby ordered and adjudged that Kespondent's motion for summary judgment is granted; judgment as to all issues is entered against Claimants Swift and Taylor and in favor of Respondent; and this claim is dismissed with prejudice.

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(No. 92-CC-1559—Claim dismissed.)

LAKE-COOK PSYCHOLOGISTS, Claimant, *v.*
THE STATE OF ILLINOIS, Respondent.

*Opinionfiled February 24,* 1993.

JOHN JOCHEM, *pro* se, for Claimant.

ROLAND W. BURRIS, Attorney General (CYNTHIA WOOD, Assistant Attorney General, of counsel), for Respondent.

PUBLIC AID CODE—*psychological services—extent of IDPA's Medical*

Assistance Program coverage. Pursuant to the provisions of the Public Aid Code, coverage for services rendered by licensed psychologists to recipients of the Department of Public Aid's Medical Assistance program is restricted to diagnostic and psychological examinations and tests only when the services are requested by IDPA or the Department of Children and Family Services, to determine permanent and total disability or incapacity, to determine the suitability of a home for a child, or for planning or arranging for foster care for a child; and coverage of psychotherapy or other treatment services is limited to those provided by a physician.

VENDOR-PAYMENT CLAIMS—psychotherapy services rendered by psychologist to MAP recipient not *covered—claim* dismissed. In a psychologist's action seeking payment for psychotherapy services rendered to a recipient of benefits under IDPA's Medical Assistance Program, the claim was dismissed since the psychologist failed to establish that the services in question had been requested by IDPA or DCFS, that they were in furtherance of one of the purposes authorized by statute and IDPA Rules, or that they were diagnostic in nature, and because coverage of psychotherapy and other treatment modalities was restricted to physicians' services.

## OPINION

SOMMER, J.

Claimant, Dr. Jochem, a clinical psychologist, is here seeking a vendor-payment, pursuant to section **11—13** of the Public Aid Code (or "PAC") (Ill. Rev. Stat. ch. **23,** par. **11—13),** for psychotherapy services which he had rendered in April **1991,** to patient Flores, a recipient under the Medical Assistance Program (MAP) administered by the Illinois Department of Public Aid (IDPA). Respondent has moved for summary judgment, contending: that Claimant's treatment of recipient Flores did not qualify as MAP-covered services, and thus that Respondent is not obligated to pay Claimant for these services. Claimant having received notice of Respondent's motion, the Court makes the following findings:

The scope of the MAP's coverage is limited to those medical services described in the PAC, in IDPA's Rules (89 Ill. Adm. Code, Parts **140,** *et seq.*) and in the Department's vendor Handbooks. (See *Brokaw Hospital v. State* (1992), **44** Ill. Ct. Cl. **307;** *University of Illinois at*

*Chicago v. State,* No. 90 CC 307 (Opinion filed Mar. 24, 1992); *Tennant v. State* (1991), 44 Ill. Ct. Cl. 182; and *Memorial Medical Center v. State* (1988), 40 Ill. Ct. Cl. 73.) In its report herein, IDPA advises that MAP coverage of "psychological services," as rendered by licensed psychologists, is restricted to diagnostic examinations, evaluations and tests which had been authorized in advance, for specified purposes, by either Illinois Department of Children & Family Services (DCFS) or IDPA staff. See IDPA Kule 140.495(b), (89 Ill. Adm. Code §140.495(b)), which provides:

"payment shall be made for the provision of diagnostic psychological examinations and tests only when the services are requested by the Department **[IDPA** or **DCFS]** for one of the following reasons:

**(1)** to determine permanent and total disability or incapacity (see 89 Ill. Adm. Code **112.62** and 89 Ill. Adm. Code **120.314);**

**(2)** to determine the suitability of a home for **a** child; or

**(3)** for planning or arranging for foster care for **a** child."

(*Cass County Mental Health Association v. State,* No. 91 CC 1582. (Opinion filed Feb. 6, 1992)). The Department reports that the coverage provisions of the PAC and IDPA Hules do not extend to or include psychotherapy or other treatment services rendered by psychologists.

MAP coverage does exist for certain psychiatric diagnostic and treatment services, when rendered by MAP-enrolled physicians to Medicaid-eligible recipients, provided that medical necessity for such services is established. (See IDPA Rule 140.413(a)(5), (89 Ill. Adm. Code §140.413(a)(5).) IDPA's MAP *Handbook for Physicians* specifies that:

"[t]he provision of psychiatric services is limited to those services and associated procedure codes [as listed or referred to therein] and must be *personally* provided by the physician who submits charges. Services provided by a psychologist, social worker, etc. are not reimbursable." (*Id.*, Topic **A-210.7,** emphasis in original; and see Topics **A-240** ***et seq.***, concerning psychiatric consultations.)

These provisions make it clear that coverage of psychotherapy and similar treatment modalities are restricted to physicians' services.

Dr. Jochem fails to establish that the subject services to recipient Flores were in furtherance of one of IDPA Rule 140.495(b)'s three purposes, or that said services had been requested by DCFS or IDPA. (*Cass County Mental Health Association v. State*, cited ***supra.)*** Moreover, said services consisted of treatment, rather than diagnostic, services; and as such, they were not MAP-covered services.

It is therefore hereby ordered and adjudged that Respondent's motion for summary judgment is granted, and this claim is dismissed.

# LAW ENFORCEMENT OFFICERS, CIVIL DEFENSE WORKERS, CIVIL AIR PATROL MEMBERS, PARAMEDICS, FIREMEN AND STATE EMPLOYEES COMPENSATION ACT

## OPINIONS NOT PUBLISHED IN FULL

## FY 1993

Where a claim for compensation filed pursuant to the Law Enforcement Officers, Civil Defense Workers, Civil Air Patrol Members, Paramedics, Firemen and State Employees Compensation Act (820 ILCS 315/1 ***et seq.***, formerly Ill. Rev. Stat., ch. 48, par. 281 ***et seq.***), within one year of the date of death of a person covered by said Act, is made and it is determined by investigation of the Attorney General of Illinois as affirmed by the Court of Claims, or by the Court of Claims following a hearing, that a person covered by the Act was killed in the line of duty, compensation in the amount of $20,000.00 or $50,000.00 if such death occurred on or after July 1, 1983, shall be paid to the designated beneficiary of said person or, if none was designated or surviving, then to such relative(s) as set forth in the Act.

| | | |
|---|---|---|
| 92-CC-1783 | Rice, Celia M. | $50,000.00 |
| 92-CC-2625 | Perkins, Mattie L. | 50,000.00 |
| 92-CC-2956 | Novak, Patricia | 50,000.00 |
| 92-CC-3200 | McHale, Diana | 50,000.00 |
| 93-CC-0057 | Browning, Robert & Browning, Marilyn | 50,000.00 |
| 93-CC-0245 | Luby, Angela | 50,000.00 |
| 93-CC-0371 | Meredith, Chalis Jean | 50,000.00 |
| 93-CC-0795 | Dixon, Edwina; Dixon, Elma; Dixon, Donald; & Dixon, Kewan | 50,000.00 |
| 93-CC-0891 | Lyons, Carol A. | 50,000.00 |
| 93-CC-0956 | Leckrone, Sherry K. | 20,000.00 |
| 93-CC-1387 | Lewis, Clarence E. & Doris M. | 50,000.00 |
| 93-CC-1687 | Ciocci, Rose Marie | 50,000.00 |

# MISCELLANEOUS **AWARDS**

## FY 1993

| | | |
|---|---|---|
| 83-CC-1947 | Maher, James | $300.00 |
| 84-CC-0535 | Van Kirk, Jerry A., & J. B. Flatlow Co. | 600.00 |
| 84-CC-1942 | Amann, James | 2,800.00 |
| 85-CC-3001 | Elkins, Gregory G. | 50,000.00 |
| 86-CC-2580 | White, Gerald; Admr. of the Estate of Betty Jo Kingston, Dec'd | 30,000.00 |
| 87-CC-3547 | Eshelman, Dale | 500.00 |
| 88-CC-0689 | Smith, Tammara Ann; Special Admrx. of the Estate of Edward Rae Smith, Jr. | 11,000.00 |
| 89-CC-0453 | Palmer, Jeanette | 6,990.00 |
| 89-CC-1122 | Belenke, Sylvia | 300.00 |
| 89-CC-2934 | Maddox, Charles | 35,000.00 |
| 90-cc-0091 | Feldick, Joyce | 35,000.00 |
| 90-CC-0743 | Schugel, J & R, Trucking | 39,000.00 |
| 90-CC-2554 | Baron-Gerstein, Marlene | 500.00 |
| 90-CC-2656 | Randolph, County of | 3,740.00 |
| 90-CC-3468 | Poerio, Suzanne, Robert & Craig | 21,000.00 |
| 91-CC-0034 | Henderson, Paula D. | 71,000.00 |
| 91-CC-0036 | Whipple, Earl F. | 1,151.85 |
| 91-CC-2021 | Ideal Heating Co. | 16,500.00 |
| 91-CC-2150 | Chicago, City of, Municipal Corp. of State of Illinois | 21,600.00 |
| 91-CC-2794 | Mid-States General & Mechanical Contracting Corp. | 53,881.00 |
| 91-CC-3483 | West American Insurance Co. | 717.54 |
| 92-CC-0634 | Reed, Thomas | 977.86 |
| 92-CC-0836 | Ackerman, Judith | 45.00 |
| 92-CC-1330 | Bradbury, Patricia | 455.18 |
| 92-CC-1331 | Kennedy, Maria | 46.08 |
| 92-CC-1889 | Jones, Jesse | 500.00 |
| 92-CC-2303 | Fenton, Ruby | 4,000.00 |
| 92-CC-2792 | Cooper-Becker, Elsie | 10,891.00 |
| 92-CC-2874 | Strom, Roy; Refuse Removal Service, Inc. | 2,694.02 |
| 92-CC-3073 | Child, William C. | 2,619.85 |
| 92-CC-3156 | Giannangelo, Stephen J. | 50.00 |
| 92-CC-3357 | Smith, Barbara J.; as Admrx. of the Estate of Deborah A. Smith, Dec'd | 300,000.00 |

| | | |
|---|---|---|
| 93-CC-0197 | Simon, **Mark A.** | 239.50 |
| 93-CC-0254 | Romero, **Pat** | 206.00 |
| 93-CC-1982 | Zechman, G. **R., III** | 1,000.00 |

# MISCELLANEOUS DENIED AND DISMISSED CLAIMS

## FY 1993

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|---|---|---|
| 77-CC-2249 | Bertucca, Daniel | Dismissed |
| 77-CC-2357 | Wojdyla, Evelyn; Conservator of the Estate of Eugene W. Wojdyla | Reconsidered Dismissal |
| 81-CC-0582 | General Engineering & Manufacturing Corp. | Dismissed |
| 81-CC-2628 | Howard, Arthel N. | Dismissed |
| 82-CC-0526 | May, Martha; for use & benefit of Hanover Insurance Co. | Dismissed |
| 82-CC-2043 | Kildew, Cheryl | Reconsidered Dismissal |
| 83-CC-0156 | Joseph, Richard | Dismissed |
| 83-CC-0519 | ITT Telecommunications Corp. | Dismissed |
| 83-CC-2211 | Walker, Susan F.; Admrx. of the Estate of Ronald W. Walker, Dec'd | Dismissed |
| 83-CC-2313 | Manson, Stanley W. | Dismissed |
| 84-CC-1919 | Nowakoski, Marie E., *et al.* | Dismissed |
| 84-CC-1992 | Claywell, Helen; a minor by her Father and Next Friend, Michael Claywell | Dismissed |
| 84-CC-3005 | Caruth, Alsana X. | Reconsidered Dismissal |
| 84-CC-3336 | Hettler, Herman H., Lumber Co. | Dismissed |
| 85-CC-0136 | Stamps, John William, Sr. | Dismissed |
| 85-CC-0154 | Community College Dist. #508 | Dismissed |
| 85-CC-0245 | Bell, Michael | Dismissed |
| 85-CC-0248 | Khuong, Loc H., & Khuong, Tho H. | Dismissed |
| 85-CC-0328 | Jones, Michael | Denied |
| 85-CC-0544 | Parks, Margo Marie | Dismissed |
| 85-CC-0852 | Pape, Janet; Indiv. & as Mother & Next Friend of James Pape, Jr., Michael Pape & Patrick Pape, minors, & as Adm. of the Estate of James Pape | Dismissed |
| 85-CC-1471 | Ford, Mary & Ford, Ernest | Denied |
| 85-CC-2210 | Little Company of Mary Hospital | Dismissed |
| 85-CC-2550 | Gorka, Pat | Dismissed |
| 85-CC-2700 | Weder, Robert & Weder, Alice | Dismissed |
| 85-CC-3107 | Xerox Corp. | Dismissed |
| 86-CC-0060 | Ross, Janice; Special Admr. of the Estate of Samantha Ross, Quentin Ross, & Cyril Ross, Dec'd | Dismissed |

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| 86-CC-0303 | Zoph, Jeffery | Dismissed |
| 86-CC-0342 | Williams, Precious | Dismissed |
| 86-CC-0498 | Washington, Jerry | Dismissed |
| 86-CC-0786 | St. Anne's Hospital | Dismissed |
| 86-CC-0789 | St. Anne's Hospital | Dismissed |
| 86-CC-0806 | Vukelic, Robert | Dismissed |
| 86-CC-0928 | St. Anne's Hospital | Dismissed |
| 86-CC-1106 | Sawyer, Sylvester | Dismissed |
| 86-CC-2077 | Wright, Christine | Dismissed |
| 86-CC-2377 | Early, Francis S. | Dismissed |
| 86-CC-2439 | Lutheran Social Services of Illinois | Dismissed |
| 86-CC-2451 | Lutheran Social Services of Illinois | Dismissed |
| 86-CC-2525 | Bernardo, Thomas | Dismissed |
| 86-CC-2584 | Lopez, Bacilio | Dismissed |
| 86-CC-2951 | Singleton, Leon J. | Dismissed |
| 86-CC-3017 | Christ Hospital | Dismissed |
| 86-CC-3040 | Swift, Daniel L., M.D. | Dismissed |
| 87-CC-0046 | Kriesse, Sylvia | Dismissed |
| 87-CC-0336 | Billman, Pauline & Estel Leroy; Indiv. & as Co-Guardian of Thomas Austin McDonald, Incompetent | Dismissed |
| 87-CC-0438 | Balyus, Theodore; a disabled person, by his Guardian, The Reverend Edward Bikoma | Dismissed |
| 87-CC-0445 | Schlott, Kathleen | Denied |
| 87-CC-0486 | Forjas, Francisco | Reconsidered Denial |
| 87-CC-0558 | Longstreet, Robert L. | Dismissed |
| 87-CC-0659 | Ray, James | Dismissed |
| 87-CC-0716 | Sidley & Austin | Dismissed |
| 87-CC-1242 | Clemons, Robin, M.D. | Dismissed |
| 87-CC-1266 | Balabanos, Christ | Dismissed |
| 87-CC-1319 | Lafata, Dominick | Dismissed |
| 87-CC-1530 | Giles, John Kelvin | Dismissed |
| 87-CC-1532 | Smith, Robert | Reconsidered Denial |
| 87-CC-2455 | Jessen, Donald E. | Dismissed |
| 87-CC-2615 | Morse, Gerald R. | Dismissed |
| 87-CC-2949 | Jan's Motor Service | Dismissed |
| 87-CC-3376 | Furtek, Dawn; by her Mother, Cynthia Grass Christ | Dismissed |
| 87-CC-3635 | Woodworth, Christine; a minor, by her Mother & Next Friend, Linda Lumpp & Linda Lumpp, Indiv.. | Dismissed |

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| 87-CC-3718 | Schlim, Phyllis May; Admrx. of the Estate of Mark Allen Aita, Dec'd | Dismissed |
| 87-CC-4229 | AT&T | Dismissed |
| 88-CC-0154 | Illinois Masonic Medical Center | Dismissed |
| 88-CC-0282 | Dittrich of Minnesota d/b/a Bob Dittrich Co., A Corp; & Deborah R. Trosper | Dismissed |
| 88-CC-0323 | Passavant Area Hospital | Dismissed |
| 88-CC-0536 | Muller, Walter | Dismissed |
| 88-CC-1024 | Lisle, Village of | Dismissed |
| 88-CC-1179 | LaPlaca, John; Indiv. & for the Estate of Baby Boy LaPlaca & Deborah | Dismissed |
| 88-CC-1486 | Case Power & Equipment | Dismissed |
| 88-CC-1540 | McColpin, Richard | Dismissed |
| 88-CC-1768 | Verkamman, Marilyn Wright; as Mother & Next Friend of Justin Verkamman | Dismissed |
| 88-CC-1828 | Johnson, Larry | Dismissed |
| 88-CC-2136 | Riverside Medical Center | Dismissed |
| 88-CC-2201 | Riverside Medical Center | Dismissed |
| 88-CC-2329 | Daniels, Jerome | Dismissed |
| 88-CC-2452 | Clarey, Roslyn E.; Widow & Special Adm of the Estate of James F. Clarey, Dec'd | Dismissed |
| 88-CC-2630 | DeLaCruze, Lisa | Dismissed |
| 88-CC-2705 | Freeborn & Peters | Dismissed |
| 88-CC-3126 | Stilp, Thomas, Dr. | Denied |
| 88-CC-3359 | Wojciechowski, Walter, Zenona & Eva; a minor by her Mother & Next Friend Zenona Wojciechowski | Dismissed |
| 88-cc-3399 | Anderson, J. Emil, & Sons, Inc. & Richard F. Batchen | Dismissed |
| 88-CC-3486 | Joliet, City of | Dismissed |
| 88-CC-3525 | Illinois Bell Telephone Co. | Dismissed |
| 88-cc-3893 | Muzzarelli, Merbeth S. | Dismissed |
| 88-cc-3990 | Business Machine Agents | Dismissed |
| 88-CC-4207 | Illinois Bell Telephone Co. | Dismissed |
| 88-CC-4523 | Grethe, Phyllis | Dismissed |
| 88-cc-4567 | Reliable Contracting & Equipment Co. | Dismissed |
| 88-CC-4599 | Illinois Bell Telephone Co. | Dismissed |
| 89-CC-0085 | LaMar, James | Dismissed |
| 89-CC-0132 | Gonzalez, Alberto | Dismissed |
| 89-CC-0173 | Rodriguez, Theresa | Dismissed |
| 89-cc-0181 | Illinois Bell Telephone Co. | Dismissed |

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|---|---|---|
| 89-CC-0232 | Piatt, Gary | Dismissed |
| 89-CC-0310 | Sandor, John A. | Dismissed |
| 89-CC-0547 | Berrios, Edwin | Denied |
| 89-CC-0660 | Hulse, Kristine | Dismissed |
| 89-CC-0724 | Pettis, Julius L. | Dismissed |
| 89-CC-0784 | Meyer, Donna J. | Dismissed |
| 89-CC-0805 | Kimbrough, Sam | Dismissed |
| 89-CC-0842 | Wilmington Health Care Center | Dismissed |
| 89-CC-0953 | Femandes, Michael | Dismissed |
| 89-CC-1132 | Adams, Dennis | Dismissed |
| 89-CC-1197 | Oertel, John & Sylvia | Dismissed |
| 89-CC-1537 | Dynitech Systems, Inc. | Dismissed |
| 89-CC-1844 | United Services Automobile Association | Dismissed |
| 89-CC-1890 | King, Robert | Dismissed |
| 89-CC-1984 | Tweedy, Bonnie J. | Dismissed |
| 89-CC-2178 | Curriculum, Inc. | Dismissed |
| 89-CC-2197 | U.S. Oil Co. | Dismissed |
| 89-CC-2352 | Iqbal, Zaf'ar M. | Dismissed |
| 89-CC-2359 | Hampton Inn | Dismissed |
| 89-CC-2428 | Pacheco, Martin | Dismissed |
| 89-CC-2557 | Winnell, Bruce | Dismissed |
| 89-CC-2810 | Rogers, Jimmy | Dismissed |
| 89-CC-2844 | McBounds, Willie Earl | Dismissed |
| 89-CC-2905 | Du Page Emergency Physicians | Dismissed |
| 89-CC-2937 | Ragusa, Richard & Kathy | Dismissed |
| 89-CC-3043 | White, Terry | Dismissed |
| 89-CC-3080 | Kremsreiter, Elaine | Dismissed |
| 89-CC-3814 | Ferrer, Victor M. | Dismissed |
| 89-CC-3846 | Radun, Anthony | Dismissed |
| 90-CC-0072 | Waters, Larry B. | Dismissed |
| 90-CC-0118 | Cadge, Demetrius M. | Dismissed |
| 90-CC-0122 | Burks, Dennis | Dismissed |
| 90-CC-0128 | Collgan, Ronald J.; Admr. of the Estate of Robert D. Collgan, Dec'd | Dismissed |
| 90-CC-0135 | Bivens, Charles | Dismissed |
| 90-CC-0154 | Villanueva, Teresa; Indiv. & as Mother of Mitchell Ryan Villanueva & Aaron Michael Villanueva | Dismissed |
| 90-cc-0164 | Johnson, Larry | Dismissed |
| 90-CC-0187 | Richards, Rebecca; Adrnr. of the Estate of Robert Rauker, Dec'd and Thomas & Mary A. Rauker | Dismissed |

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| 90-CC-0188 | Wolf, **L.,** co. | Dismissed |
| 90-CC-0366 | French, Jason **B.** | Dismissed |
| 90-CC-0379 | Wood, Ronald L.; Guardian of the Estate of Keith C. Wood | Dismissed |
| 90-CC-0445 | Carter, James R. | Dismissed |
| 90-CC-0507 | Springfield Hilton | Dismissed |
| 90-CC-0672 | Rubach, Myra | Dismissed |
| 90-CC-0720 | Phillis, Richard **L.,** M.D. | Dismissed |
| 90-CC-0852 | Mazen Abdelmagid | Dismissed |
| 90-CC-0906 | West, Demck **K.** | Denied |
| 90-CC-1139 | Powell, Michael | Dismissed |
| 90-CC-1213 | Claeys, Paul **V.,** & Rita R. | Dismissed |
| 90-CC-1343 | Idea Courier | Dismissed |
| 90-CC-1346 | Anderson, Deborah | Reconsidered Dismissal |
| 90-CC-1390 | DeLong Disposal | Dismissed |
| 90-CC-1500 | Gentile, Carmen | Dismissed |
| 90-CC-1518 | Robinson, Marlene; Admr. of the Estate of Robinson, Thomas, Dec'd | Dismissed |
| **90-CC-1593** | **Powell, Harold** | **Denied** |
| 90-CC-1695 | Bealmear, Charles Ray; Co-Admr. of the Estate of Charles Rodney Bealmear, Dec'd & Charles Ray Bealmear | Dismissed |
| 90-CC-1958 | Green, Richard | Dismissed |
| 90-CC-2147 | Des Plaines, City of | Reconsidered Dismissal |
| 90-CC-2280 | Handley, John | Dismissed |
| 90-CC-2293 | Woodworker's Supply of New Mexico | Dismissed |
| 90-CC-2304 | United States Fidelity and Guaranty Co. | Dismissed |
| 90-CC-2375 | Chicago, City of | Dismissed |
| 90-CC-2817 | Rockford Clinic | Denied |
| 90-CC-3071 | Teplitz, Janet | Dismissed |
| 90-CC-3086 | Unocal | Dismissed |
| 90-CC-3107 | Edwards, Antonio | Denied |
| 90-CC-3167 | Coleman, Joe | Dismissed |
| 90-CC-3415 | CPC Old Orchard Hospital | Dismissed |
| 90-CC-3416 | CPC Old Orchard Hospital | Dismissed |
| 90-CC-3417 | CPC Old Orchard Hospital | Dismissed |
| 90-CC-3418 | CPC Old Orchard Hospital | Dismissed |
| 90-CC-3419 | CPC Old Orchard Hospital | Dismissed |
| 90-CC-3420 | CPC Old Orchard Hospital | Dismissed |
| 90-CC-3421 | CPC Old Orchard Hospital | Dismissed |
| 90-CC-3422 | CPC Old Orchard Hospital | Dismissed |

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|---|---|---|
| 90-CC-3423 | CPC Old Orchard Hospital | Dismissed |
| 90-CC-3424 | CPC Old Orchard Hospital | Dismissed |
| 90-CC-3425 | CPC Old Orchard Hospital | Dismissed |
| 90-CC-3426 | CPC Old Orchard Hospital | Dismissed |
| 90-CC-3427 | CPC Old Orchard Hospital | Dismissed |
| 90-CC-3428 | CPC Old Orchard Hospital | Dismissed |
| 90-CC-3429 | CPC Old Orchard Hospital | Dismissed |
| 90-CC-3430 | CPC Old Orchard Hospital | Dismissed |
| 90-CC-3431 | CPC Old Orchard Hospitd | Dismissed |
| 90-CC-3432 | CPC Old Orchard Hospital | Dismissed |
| 90-CC-3473 | Prairie International | Dismissed |
| 90-CC-3474 | Prairie International | Dismissed |
| 91-CC-0016 | Liska, Frank, **Jr.** | Dismissed |
| 91-CC-0020 | Riverside Medical Center | Dismissed |
| 91-CC-0021 | Riverside Medical Center | Dismissed |
| 91-CC-0022 | Riverside Medical Center | Dismissed |
| 91-CC-0023 | Riverside Medical Center | Dismissed |
| 91-CC-0024 | Riverside Medical Center | Dismissed |
| 91-CC-0025 | Riverside Medical Center | Dismissed |
| 91-CC-0173 | Mora, Maria C., a minor, by her Father and Next Friend, Manuel Mora | Dismissed |
| 91-CC-0245 | Hollins, Jerry | Denied |
| 91-CC-0277 | Hospital Radiology Service | Denied |
| 91-CC-0285 | McKechnie, James **K.,** M.D. | Dismissed |
| 91-CC-0315 | Perkins, Michael | Dismissed |
| 91-CC-0329 | Colin, Robert | Dismissed |
| 91-CC-0347 | Riverside Medical Center | Dismissed |
| 91-CC-0348 | Riverside Medical Center | Dismissed |
| 91-CC-0349 | Riverside Medical Center | Dismissed |
| 91-CC-0350 | Riverside Medical Center | Dismissed |
| 91-CC-0351 | Riverside Medical Center | Dismissed |
| 91-CC-0352 | Riverside Medical Center | Dismissed |
| 91-CC-0353 | Riverside Medical Center | Dismissed |
| 91-CC-0354 | Riverside Medical Center | Dismissed |
| 91-CC-0355 | Riverside Medical Center | Dismissed |
| 91-CC-0356 | Riverside Medical Center | Dismissed |
| 91-CC-0357 | Riverside Medical Center | Dismissed |
| 91-CC-0358 | Riverside Medical Center | Dismissed |
| 91-CC-0359 | Riverside Medical Center | Dismissed |
| 91-CC-0360 | Riverside Medical Center | Dismissed |
| 91-CC-0361 | Riverside Medical Center | Dismissed |

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|---|---|---|
| 91-cc-0362 | Riverside Medical Center | Dismissed |
| 91-CC-0363 | Riverside Medical Center | Dismissed |
| 91-CC-0364 | Riverside Medical Center | Dismissed |
| 91-CC-0365 | Riverside Medical Center | Dismissed |
| 91-CC-0366 | Riverside Medical Center | Dismissed |
| 91-CC-0367 | Riverside Medical Center | Dismissed |
| 91-CC-0368 | Riverside Medical Center | Dismissed |
| 91-CC-0369 | Riverside Medical Center | Dismissed |
| 91-CC-0370 | Riverside Medical Center | Dismissed |
| 91-CC-0371 | Riverside Medical Center | Dismissed |
| 91-CC-0372 | Riverside Medical Center | Dismissed |
| 91-CC-0373 | Riverside Medical Center | Dismissed |
| 91-CC-0374 | Riverside Medical Center | Dismissed |
| 91-CC-0375 | Riverside Medical Center | Dismissed |
| 91-CC-0376 | Riverside Medical Center | Dismissed |
| 91-CC-0377 | Riverside Medical Center | Dismissed |
| 91-CC-0378 | Farmer, Bernard | Dismissed |
| 91-CC-0491 | Bouzek, Lisa | Dismissed |
| 91-CC-0496 | Jewish Children's Bureau of Chicago | Dismissed |
| 91-CC-0500 | Riverside Medical Center | Dismissed |
| 91-CC-0501 | Riverside Medical Center | Dismissed |
| 91-CC-0502 | Riverside Medical Center | Dismissed |
| 91-CC-0504 | Riverside Medical Center | Dismissed |
| 91-CC-0505 | Riverside Medical Center | Dismissed |
| 91-CC-0506 | Riverside Medical Center | Dismissed |
| 91-CC-0507 | Riverside Medical Center | Dismissed |
| 91-CC-0508 | Riverside Medical Center | Dismissed |
| 91-CC-0536 | CPC Old Orchard Hospital | Dismissed |
| 91-cc-0551 | Hennepin County Medical Center | Denied |
| 91-CC-0568 | Diberardino, Mary Ellen; Indiv. & as Admr. of the Estate of Jacqueline Diberardino, a minor, Dec'd | Dismissed |
| 91-CC-0588 | Jordan, Macilean & Taylor, Leroy, a minor by his Mother & **Guardian,** Macilean Jordan | Dismissed |
| 91-CC-0634 | Yamnitz & Associates | Reconsidered Dismissal |
| 91-CC-0635 | Zavorski, Michael T. | Dismissed |
| 91-CC-0712 | Riverside Medical Center | Dismissed |
| 91-CC-0713 | Riverside Medical Center | Dismissed |
| 91-CC-0714 | Riverside Medical Center | Dismissed |
| 91-CC-0715 | Riverside Medical Center | Dismissed |
| 91-CC-0716 | Riverside Medical Center | Dismissed |

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|---|---|---|
| 91-CC-0717 | Riverside Medical Center | Dismissed |
| 91-CC-0718 | Riverside Medical Center | Dismissed |
| 91-CC-0719 | Riverside Medical Center | Dismissed |
| 91-CC-0720 | Riverside Medical Center | Dismissed |
| 91-CC-0721 | Riverside Medical Center | Dismissed |
| 91-CC-0722 | Riverside Medical Center | Dismissed |
| 91-CC-0723 | Riverside Medical Center | Dismissed |
| 91-CC-0724 | Riverside Medical Center | Dismissed |
| 91-CC-0725 | Riverside Medical Center | Dismissed |
| 91-CC-0726 | Riverside Medical Center | Dismissed |
| 91-CC-0727 | Riverside Medical Center | Dismissed |
| 91-CC-0728 | Riverside Medical Center | Dismissed |
| 91-CC-0729 | Riverside Medical Center | Dismissed |
| 91-CC-0730 | Riverside Medical Center | Dismissed |
| 91-CC-0731 | Riverside Medical Center | Dismissed |
| 91-CC-0732 | Riverside Medical Center | Dismissed |
| 91-CC-0733 | Riverside Medical Center | Dismissed |
| 91-CC-0734 | Riverside Medical Center | Dismissed |
| 91-CC-0735 | Riverside Medical Center | Dismissed |
| 91-CC-0773 | Riverside Medical Center | Dismissed |
| 91-CC-0775 | Riverside Medical Center | Dismissed |
| 91-CC-0776 | Riverside Medical Center | Dismissed |
| 91-CC-0777 | Riverside Medical Center | Dismissed |
| 91-CC-0778 | Riverside Medical Center | Dismissed |
| 91-CC-0779 | Riverside Medical Center | Dismissed |
| 91-CC-0840 | Radiograph Processors, Inc. | Dismissed |
| 91-CC-0854 | Riverside Medical Center | Dismissed |
| 91-CC-0855 | Riverside Medical Center | Dismissed |
| 91-CC-0856 | Riverside Medical Center | Dismissed |
| 91-CC-0857 | Riverside Medical Center | Dismissed |
| 91-CC-0948 | Illini Supply, Inc. | Dismissed |
| 91-cc-0990 | Dent, James L. | Dismissed |
| 91-CC-1071 | PMC Medica, Inc. c/o James Yamini | Dismissed |
| 91-CC-1072 | PMC Famous Livery *d o* James Yamini | Dismissed |
| 91-CC-1073 | PMC Famous Livery *d o* James Yamini | Dismissed |
| 91-CC-1074 | PMC Medicar, Inc. *d o* James Yamini | Dismissed |
| 91-CC-1113 | Davison, Daniel T. | Dismissed |
| 91-CC-1220 | Mohan, Jagan | Dismissed |
| 91-CC-1327 | Goldsmith, Joan R. | Dismissed |
| 91-CC-1430 | Meeks, Wrophas | Dismissed |
| 91-CC-1433 | Leon, Ramon & Yanke, Joanna | Dismissed |

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|---|---|---|
| 91-CC-1472 | Stickney Township | Dismissed |
| 91-CC-1535 | Marathon Petroleum Co. | Dismissed |
| 91-CC-1603 | Troyer, Catherine J. | Dismissed |
| 91-CC-1608 | Tjaden, Scott | Dismissed |
| 91-CC-1737 | Bloom, Robert W. | Dismissed |
| 91-CC-1808 | Eichenauer Services, Inc. | Dismissed |
| 91-CC-1834 | O'Brien, Patrick | Dismissed |
| 91-CC-1858 | Springfield Radiology | Dismissed |
| 91-CC-1943 | West Publishing Co. | Dismissed |
| 91-CC-1974 | Crowell, Rebecca; Special Admr. of the Estate of Velma Jones, Dec'd | Dismissed |
| 91-CC-2100 | Ledesma, Geraldo | Dismissed |
| 91-CC-2240 | Thomas, Ted J. | Dismissed |
| 91-CC-2272 | Flynn, George K. | Dismissed |
| 91-CC-2287 | Family Service & Visiting Nurse Assn. | Dismissed |
| 91-CC-2326 | Weir, William Gordon & Tina | Dismissed |
| 91-CC-2377 | Concrete Structures of the Midwest, Inc. | Dismissed |
| 91-CC-2416 | Wang Labs, Inc. | Dismissed |
| 91-CC-2506 | Milwaukee Insurance Co.; as Subrogee Wanda Williams | Dismissed |
| 91-CC-2564 | Continental Airlines | Dismissed |
| 91-CC-2609 | Springfield Clinic | Dismissed |
| 91-CC-2718 | Halloran, Nordene M. | Dismissed |
| 91-CC-2785 | Lakes General Partner Corp. | Dismissed |
| 91-CC-2821 | Fromm, Nancy | Dismissed |
| 91-CC-2865 | Midwest Law Printing Co. | Dismissed |
| 91-CC-2869 | Midwest Law Printing Co. | Dismissed |
| 91-CC-2909 | Wiley Office Equipment Co. | Dismissed |
| 91-CC-3003 | Williams, Robert | Denied |
| 91-CC-3177 | Continental Airlines | Dismissed |
| 91-CC-3189 | southern Illinois University at Carbondale | Dismissed |
| 91-CC-3264 | Scott, Troy G. | Dismissed |
| 91-CC-3268 | Radivojevic, Bratislav M. | Dismissed |
| 91-CC-3417 | Ferguson, Marilyn C. | Dismissed |
| 91-CC-3418 | Smith, Kenneth, & Karen | Dismissed |
| 91-CC-3513 | Royal Hotel of Carbondale, Inc. | Dismissed |
| 91-CC-3515 | Royal Hotel of Carbondale, Inc. | Dismissed |
| 91-CC-3532 | Kellner, M. J., Co. | Dismissed |
| 91-cc-3564 | Thaker, Sudevi, M.D. | Dismissed |
| 91-cc-3565 | Jones, Nathan | Denied |
| 91-CC-3570 | Donovan, Kyla A. | Reconsidered Dismissal- |

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|---|---|---|
| 91-CC-3617 | Consultants in Neurology | Dismissed |
| 92-CC-0041 | Samuel, Kathleen | Dismissed |
| 92-CC-0126 | Bilco Co. | Dismissed |
| 92-CC-0163 | Englewood Construction Co. | Dismissed |
| 92-CC-0169 | Goyer, Evelyn R. | Dismissed |
| 92-CC-0229 | Jacobson, Wayne D. & Rita S. | Dismissed |
| 92-CC-0256 | Brennan, Philip G. | Dismissed |
| 92-CC-0258 | Holland, William | Dismissed |
| 92-CC-0352 | American Type Culture Collection | Dismissed |
| 92-CC-0356 | Billo, Shawn | Dismissed |
| 92-CC-0404 | Mapco Oil & Gas | Dismissed |
| 92-CC-0405 | Columbus, Cuneo, Cabrini Medical Center | Dismissed |
| 92-CC-0419 | Baker-Hauser Co. | Dismissed |
| 92-CC-0436 | Community Care Systems, Inc. | Dismissed |
| 92-CC-0465 | Ramada Hotel-Mt. Vernon | Dismissed |
| 92-CC-0473 | Illini Supply, Inc. | Dismissed |
| 92-CC-0489 | Lutheran Social Services of Illinois | Dismissed |
| 92-CC-0495 | Sangamon Eye Assoc., Ltd. | Dismissed |
| 92-CC-0498 | Butler, John | Reconsidered Dismissal |
| 92-CC-0499 | Butler, John | Dismissed |
| 92-CC-0507 | Lutheran Child & Family Services of Illinois | Dismissed |
| 92-CC-0563 | Crawford County Sheriff's Dept. | Dismissed |
| 92-CC-0587 | State Farm Insurance Co. a/s/o Curtis Gilmore | Dismissed |
| 92-CC-0596 | Mitchell, Warren "Buddy" | Dismissed |
| 92-CC-0597 | Mitchell, Warren "Buddy" | Dismissed |
| 92-CC-0609 | Oak Manor Health Care Center | Dismissed |
| 92-CC-0615 | Shutler, Tina | Dismissed |
| 92-CC-0630 | Butler, John | Reconsidered Dismissal |
| 92-CC-0645 | Frank, Virginia | Dismissed |
| 92-CC-0666 | Ogle County Sheriff's Dept. | Dismissed |
| 92-CC-0668 | Cook County Dept. of Corrections | Dismissed |
| 92-CC-0761 | Moore, Anthony | Dismissed |
| 92-CC-0782 | Grace Entertainment, Inc. d/b/a Checker's Nightclub | Reconsidered Dismissd |
| 92-CC-0958 | Springfield Hilton Hotel | Reconsidered Dismissd |
| 92-CC-0997 | United Airlines, Inc. | Dismissed |
| 92-CC-1048 | River City Day Care | Dismissed |
| 92-CC-1142 | White County Sheriff's Dept. | Dismissed |
| 92-CC-1154 | Chicago Board of Education | Dismissed |

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| 92-CC-1158 | Southern Illinois University, Board of Trustees | Dismissed |
| 92-CC-1196 | Brestal, Daniel | Dismissed |
| 92-CC-1269 | Hydrobotics Engineering | Dismissed |
| 92-CC-1272 | Lewis, Sonji D. | Dismissed |
| 92-CC-1301 | Anderson, Robert J. | Dismissed |
| 92-CC-1332 | Stokes, Frances | Dismissed |
| 92-CC-1422 | Vahle, Leanne; Indiv. & on behalf of Kevin Vahle, a minor | Dismissed |
| 92-CC-1483 | Cadys, John Joseph | Dismissed |
| 92-CC-1521 | OTR Truck Tire Service | Reconsidered Dismissal |
| 92-CC-1528 | Lutheran Child & Family Services of Illinois | Dismissed |
| 92-CC-1559 | Lake Cook Psychologists | Dismissed |
| 92-CC-1566 | Nelson, Delola | Dismissed |
| 92-CC-1580 | Dunphy, Lawrence | Dismissed |
| 92-CC-1686 | Community College Dist. #508, Board of Trustees of | Dismissed |
| 92-CC-1689 | Community College Dist. #508, Board of Trustees of | Dismissed |
| 92-CC-1737 | Schendel, Mark | Dismissed |
| 92-CC-1753 | Inner Space Systems | Dismissed |
| 92-CC-1786 | Thomson, Brian K. | Reconsidered Dismissal |
| 92-CC-1803 | Payne, Elvarnados | Dismissed |
| 92-CC-1833 | Morris, Johnny | Dismissed |
| 92-CC-1890 | Mainline Power Products; Division of JH Service Co. | Dismissed |
| 92-CC-1902 | Industrial Chemical Co. | Dismissed |
| 92-CC-1951 | Andrews, Willie | Dismissed |
| 92-CC-1988 | Nisbet, Bennet G., III | Dismissed |
| 92-CC-2155 | McCarthy, B. B. | Dismissed |
| 92-CC-2263 | Springs, Henry | Dismissed |
| 92-CC-2264 | Pardo, Leopoldo P., Jr., M.D. | Dismissed |
| 92-CC-2304 | Bell, Delores, & Ellis, Carl, & Perez. Sylvia | Dismissed |
| 92-CC-2335 | McCall, Morris, M.D. | Dismissed |
| 92-CC-2395 | Lutheran Child & Family Services of Illinois | Reconsidered Dismissal |
| 92-CC-2410 | Illini Supply, Inc. | Dismissed |
| 92-CC-2411 | Illini Supply, Inc. | Dismissed |
| 92-CC-2491 | Leeb, Gregory J. | Dismissed |
| 92-CC-2502 | Gelsinger, Jimmy | Dismissed |

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| 92-CC-2517 | Allen, Benjamin B. | Dismissed |
| 92-CC-2581 | La Salle Messenger Paper | Dismissed |
| 92-CC-2671 | Ancheta, Vic | Dismissed |
| 92-CC-2769 | Debow, Ruth W. | Dismissed |
| 92-CC-2770 | Debow, Ruth W. | Dismissed |
| 92-CC-2771 | Debow, Ruth W. | Dismissed |
| 92-CC-2772 | Debow, Ruth W. | Dismissed |
| 92-CC-2773 | Debow, Ruth W. | Dismissed |
| 92-CC-2774 | Debow, Ruth W. | Dismissed |
| 92-CC-2775 | Debow, Ruth W. | Dismissed |
| 92-CC-2793 | Walls, Michael A. | Dismissed |
| 92-CC-2798 | Help at Home, Inc. | Dismissed |
| 92-CC-2806 | Tachdjian, Mihran O., M.D. | Dismissed |
| 92-CC-2817 | Fitzsimmons Surgical Supply, Inc. | Dismissed |
| 92-CC-2915 | Klapman, Howard J., M.D. | Dismissed |
| 92-CC-2920 | Lutheran Social Services of Illinois | Dismissed |
| 92-CC-2938 | Longstreet, Anthony | Dismissed |
| 92-CC-2955 | Green, Della | Dismissed |
| 92-CC-3012 | Community College Dist. #508, Board of Trustees of | Dismissed |
| 92-CC-3037 | Michael, Dennis E. | Dismissed |
| 92-CC-3046 | Newsome, Earl K. | Dismissed |
| 92-CC-3050 | Baker, Jeff | Dismissed |
| 92-CC-3084 | Hopper, Glenda (Carter) | Dismissed |
| 92-CC-3088 | Fulton, County of, Acting by and through the office of the Fulton County State's Attorney | Denied |
| 92-CC-3119 | Brown, Mary | Dismissed |
| 92-CC-3137 | Rosenstein, Sheldon W., Ltd. | Dismissed |
| 92-CC-3157 | Computerland | Dismissed |
| 92-CC-3170 | Kennemer, Wesley | Dismissed |
| 92-CC-3171 | Kennemer, Wesley | Dismissed |
| 92-CC-3238 | Bieber, Hilda | Dismissed |
| 92-CC-3263 | Johnson, Buster | Dismissed |
| 92-CC-3283 | St. Therese Medical Center | Dismissed |
| 92-CC-3284 | Ireland, Scott; for uselbenefit of U.S. Fidelity & Guaranty Co. | Reconsidered Dismissal |
| 92-CC-3285 | Jay, Mark; for uselbenefit of U.S. Fidelity & Guaranty Co. | Reconsidered Dismissal |
| 92-CC-3286 | Tomlinson, Jerry; for uselbenefit of U.S. Fidelity & Guaranty Co. | Reconsidered Dismissal |

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| 92-CC-3287 | Winkler, Monte; for use/benefit of U.S. Fidelity & Guaranty Co. | Reconsidered Dismissal |
| 92-CC-3288 | Herington, Ken; the Estate of, for use/benefit of U.S. Fidelity & Guaranty Co. | Reconsidered Dismissal |
| 92-CC-3294 | Dixon, Emest | Dismissed |
| 92-CC-3318 | Hooks, Jan | Dismissed |
| 92-CC-3321 | St. Therese Medical Center | Dismissed |
| 92-CC-3322 | St. Therese Medical Center | Dismissed |
| 92-CC-3323 | St. Therese Medical Center | Dismissed |
| 92-CC-3324 | St. Therese Medical Center | Dismissed |
| 92-CC-3325 | St. Therese Medical Center | Dismissed |
| 92-CC-3326 | St. Therese Medical Center | Dismissed |
| 92-CC-3327 | St. Therese Medical Center | Dismissed |
| 92-CC-3328 | St. Therese Medical Center | Dismissed |
| 92-CC-3339 | Perkins, Lloyd | Dismissed |
| 92-CC-3342 | St. Therese Medical Center | Dismissed |
| 93-CC-0003 | Joliet Junior College | Dismissed |
| 93-CC-0009 | Walsh Construction | Dismissed |
| 93-CC-0030 | Brandt Construction Co. | Dismissed |
| 93-CC-0052 | Barricade Lites, Inc. | Dismissed |
| 93-CC-0080 | Jones, Cleve, Jr. | Dismissed |
| 93-cc-0084 | Duffy, James R. | Dismissed |
| 93-CC-0151 | Etten, Arthur P. | Dismissed |
| 93-CC-0157 | Safelite Glass Corp. | Dismissed |
| 93-CC-0161 | Espenshade, Esther E. | Dismissed |
| 93-CC-0164 | Pearson, Douglas W. | Dismissed |
| 93-CC-0198 | Luker, Steven Kent | Dismissed |
| 93-CC-0199 | Luker, Steven Kent | Dismissed |
| 93-CC-0214 | Headley Home Care Medical Supplies | Dismissed |
| 93-CC-0226 | Venson, Lily | Dismissed |
| 93-CC-0227 | Venson, Lily | Dismissed |
| 93-CC-0228 | Longstreet, Anthony | Dismissed |
| 93-CC-0271 | Williams, John | Dismissed |
| 93-CC-0273 | Griffiths, Richard | Dismissed |
| 93-CC-0289 | Femandez, Daniel | Dismissed |
| 93-CC-0324 | Bredford, Marcellius | Dismissed |
| 93-CC-0367 | **Levy,** Enrico | Reconsidered Denial |
| 93-CC-0385 | Solomon, Mark | Dismissed |
| 93-CC-0386 | Wiggins, Antoine | Reconsidered Dismissal |
| 93-CC-0410 | Luczak, Theodore | Dismissed |
| 93-CC-0461 | Pediatric Orthopaedics & Spine Surgery | Dismissed |

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| 93-CC-0462 | Pediatric Orthopaedics & Spine Surgery | Dismissed |
| 93-CC-0463 | Pediatric Orthopaedics & Spine Surgery | Dismissed |
| 93-CC-0464 | Pediatric Orthopaedics & Spine Surgery | Dismissed |
| 93-CC-0531 | Trains & Boats & Planes, Inc. | Dismissed |
| 93-CC-0550 | Northwestern Medical Faculty Foundation | Dismissed |
| 93-CC-0552 | Burton, Jeremy; a minor by his Mother and Next Friend, Pamela Burton & Tom & Pamela Burton, Indiv. | Dismissed |
| 93-CC-0627 | Haben, Dale E.; Special Admr. of the Estate of Nicholas Edward Haben, Dec'd | Dismissed |
| 93-CC-0685 | Beasly, Charles | Dismissed |
| 93-CC-0741 | Pierce, Diane | Dismissed |
| 93-CC-0742 | Franciscan Medical Center | Dismissed |
| 93-CC-0769 | Henry County Health Dept. | Dismissed |
| 93-CC-0788 | Suburban Adult Day Center, Inc. | Dismissed |
| 93-CC-0792 | Gonzales, Larry | Dismissed |
| 93-CC-0848 | Diaz, David | Dismissed |
| 93-CC-0852 | Freysinger, Rudolf H. & Karen L. | Dismissed |
| 93-CC-0864 | GTE Telecom Marketing Corp. | Dismissed |
| 93-CC-0865 | GTE Telecom Marketing Corp. | Dismissed |
| 93-CC-0866 | GTE Telecom Marketing Corp. | Dismissed |
| 93-CC-0893 | Washington, Dwight | Dismissed |
| 93-CC-0945 | Jones, Mary L. | Dismissed |
| 93-CC-0957 | Chaparro, William | Dismissed |
| 93-CC-0986 | Lindgren, Rick | Dismissed |
| 93-CC-1016 | Motorola | Dismissed |
| 93-CC-1030 | Xerox Corp. | Dismissed |
| 93-CC-1100 | Xerox Corp. | Dismissed |
| 93-CC-1101 | Xerox Corp. | Dismissed |
| 93-CC-1104 | Xerox Corp. | Dismissed |
| 93-CC-1106 | Xerox Corp. | Dismissed |
| 93-CC-1133 | Franciscan Medical Center | Dismissed |
| 93-CC-1213 | Lillibridge, Robert M. | Dismissed |
| 93-CC-1274 | Regal Business Machines, Inc. | Dismissed |
| 93-CC-1295 | Ramada Inn Lake Shore | Dismissed |
| 93-CC-1323 | Hopp, Raymond | Dismissed |
| 93-CC-1336 | Xerox Corp. | Dismissed |
| 93-CC-1511 | Powers, Gerald | Dismissed |
| 93-CC-1516 | Struck, James | Dismissed |
| 93-CC-1517 | Struck, James | Dismissed |
| 93-CC-1663 | Novak, Cory | Dismissed |

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| 93-CC-1689 | State Farm Insurance Co. a/s/o Cheryl Schwarz | Dismissed |
| 93-CC-2178 | Office Store Co. | Dismissed |
| 93-CC-2299 | Hubert & **Assoc.,** Donald | Dismissed |
| 93-CC-2832 | Deberry, Russell | Dismissed |
| 93-CC-2963 | State Employees' Retirement System of Illinois | Dismissed |

## FY 1993

When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due Claimant.

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|---|---|---|
| 86-CC-0653 | Moraine Valley Community College | $ 41,103.67 |
| 86-CC-1208 | Xerox Corp. | 672.90 |
| 86-CC-2179 | Illinois Bell Telephone Co. | 434.36 |
| 86-CC-3382 | Xerox Corp. | 141.00 |
| 87-CC-1288 | McCorkle Court Reporters, Inc. | 127.50 |
| 87-CC-1649 | Glenkirk | 6,150.25 |
| 87-CC-3618 | Ideal Office Supply | 276.00 |
| 88-CC-0955 | Illinois Bell Telephone Co. | 252.36 |
| 88-CC-1082 | Community College Dist. #508, Board of Trustees of | 176.00 |
| 88-CC-1429 | Community College Dist. #508, Board of Trustees of | 176.00 |
| 88-CC-1430 | Community College Dist. #508, Board of Trustees of | 158.00 |
| 88-CC-1915 | Community College Dist. #508, Board of Trustees of | 472.00 |
| 89-CC-0665 | Reese, Michael, Hospital | 76.70 |
| 89-CC-0786 | Murdoch & Coll, Inc. | 147.00 |
| 89-CC-0876 | Chicago, City of | 5,764.43 |
| 89-CC-1211 | Danville Area Community College | 69.00 |
| 89-CC-1337 | McCorkle Court Reporters | 230.80 |
| 89-CC-1342 | McCorkle Court Reporters | 55.00 |
| 89-CC-1989 | Glenwood Medical Group | 45.00 |
| 89-CC-2524 | Sam's 24 Hour Towing, Inc. | 1,949.50 |
| 89-CC-2876 | Xerox Corp. | 452.50 |
| 89-CC-3200 | Xerox Corp. | 279.84 |
| 89-CC-3657 | Illinois, University of, Hospital | 2,250.00 |
| 89-CC-3855 | Illinois Bell Telephone Co. | 3,343.52 |
| 90-CC-0266 | Children's World Learning Center | 5,274.70 |
| 90-CC-0306 | Illinois, University of, at Chicago | 17,211.00 |
| 90-CC-0323 | GTE Telecom Marketing Corp. | 5,392.59 |
| 90-CC-0534 | Springfield Hilton | 40.00 |

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|---|---|---|
| 90-CC-1179 | Clinical Psychology Program | 222.50 |
| 90-CC-1359 | Cadieux, Jodie | 227.00 |
| 90-CC-1567 | Kidney Stone Center of Chicago | 2,487.00 |
| 90-CC-1681 | Spotless Maintenance Service | 469.00 |
| 90-CC-2098 | Jacobs, Bill, Chevrolet | 67.75 |
| 90-CC-2199 | Office Store Co. | 313.92 |
| 90-CC-2295 | Family Alliance, Inc. | 125.00 |
| 90-CC-2479 | Illinois State University | 122.00 |
| 90-CC-2556 | Lutheran Social Services | 169.05 |
| 90-CC-2609 | Abbey Terrace Ambulance Service | 4,889.00 |
| 90-CC-2948 | Lutheran Social Services of Illinois | 458.03 |
| 90-CC-2949 | Lutheran Social Services of Illinois | 1,433.90 |
| 90-CC-2973 | Egghead Discount Software | 121.00 |
| 90-CC-2976 | Egghead Discount Software | 55.99 |
| 90-CC-3182 | Emery Worldwide | 158.50 |
| 90-CC-3199 | Office Store Co. | 453.51 |
| 90-CC-3235 | St. Mary's Hospital | 213.08 |
| 90-CC-3236 | St. Mary's Hospital | 82.78 |
| 90-CC-3271 | Child Welfare League of America | 920.00 |
| 90-CC-3392 | Illinois, University of, Hospital | 2,534.00 |
| 90-CC-3393 | Illinois, University of, Hospital | 1,605.00 |
| 91-CC-0242 | Illinois, University of, Hospital | 20,357.91 |
| 91-CC-0251 | American Fiber-Velope Mfg. Co. | 320.00 |
| 91-CC-0260 | Illinois Range Co. | 2,100.00 |
| 91-CC-0466 | Jewish Children's Bureau of Chicago | 7,217.01 |
| 91-CC-0541 | Harza Engineering Co. | 9,891.95 |
| 91-CC-0584 | Community Care Systems, Inc. | 2,390.40 |
| 91-CC-0585 | Community Care Systems, Inc. | 81.12 |
| 91-CC-0617 | Lutheran Child and Family Services of Illinois | 113.00 |
| 91-CC-0621 | Lad Lake, Inc. | 4,155.76 |
| 91-CC-0622 | Lad Lake, Inc. | 1,382.21 |
| 91-CC-0820 | Big "O" Movers & Storage, Inc. | 2,642.00 |
| 91-CC-0877 | Pitelka, Sally R. | 71.30 |
| 91-cc-0964 | Hromeks, Diane, Court Reporters, Inc. | 35.75 |
| 91-CC-0965 | Hrorneks, Diane, Court Reporters, Inc. | 8.25 |
| 91-CC-0966 | Hromeks, Diane, Court Reporters, Inc. | 44.00 |
| 91-CC-0967 | Hromeks, Diane, Court Reporters, Inc. | 82.50 |
| 91-CC-0968 | Hromeks, Diane, Court Reporters, Inc. | 38.50 |
| 91-CC-0969 | Hromek's, Diane, Court Reporters, Inc. | 8.25 |
| 91-CC-0970 | Hromeks, Diane, Court Reporters, Inc. | 8.25 |

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| 91-CC-0971 | Hromek's, Diane, Court Reporters, Inc. | 11.00 |
| 91-CC-0972 | Hromeks, Diane, Court Reporters, Inc. | 163.75 |
| 91-CC-0973 | Hromeks, Diane, Court Reporters, Inc. | 52.25 |
| 91-CC-0974 | Hromeks, Diane, Court Reporters, Inc. | 8.25 |
| 91-CC-0975 | Hromeks, Diane, Court Reporters, Inc. | 27.50 |
| 91-CC-0976 | Hromeks, Diane, Court Reporters, Inc. | 8.25 |
| 91-CC-0977 | Hromeks, Diane, Court Reporters, Inc. | 11.00 |
| 91-CC-0978 | Hromeks, Diane, Court Reporters, Inc. | 22.00 |
| 91-CC-0979 | Hromeks, Diane, Court Reporters, Inc. | 27.50 |
| 91-CC-1022 | Clark, Karen Noelle, Ph.D. | 525.00 |
| 91-CC-1079 | Lincoln, Abraham, Memorial Hospital | 1,717.97 |
| 91-CC-1096 | Illinois, University of, Hospital | 578.00 |
| 91-cc-1099 | Chaddock | 2,982.83 |
| 91-CC-1104 | Chaddock | 3,342.25 |
| 91-CC-1159 | McGill, Claudette | 1,708.00 |
| 91-CC-1165 | Automotive Spring, Inc. | 544.38 |
| 91-CC-1180 | Baxter Healthcare Corp. | 295.49 |
| 91-CC-1258 | Marathon Petroleum Co. | 15.97 |
| 91-CC-1298 | Cook County Dept. of Public Health | 4,375.00 |
| 91-CC-1302 | Williamson County Programs on Aging | 442.76 |
| 91-CC-1463 | Braden, Dianne E. | 760.24 |
| 91-CC-1484 | Illinois, University of, at Chicago | 571.63 |
| 91-CC-1537 | Bombela, Rose Mary | 183.50 |
| 91-CC-1553 | Selburg, Mary E. | 2.91 |
| 91-CC-1597 | Eriotes, Anna | 253.38 |
| 91-CC-1601 | Hensley, Roger, M.D. | 1,078.10 |
| 91-CC-1616 | IBM Corp. | 9,165.80 |
| 91-CC-1673 | Balestri, John | 76.50 |
| 91-CC-1692 | Xerox Corp. | 63.25 |
| 91-CC-1741 | Gordon, Elias M. | 300.00 |
| 91-CC-1778 | Effingham Holiday Inn | 253.34 |
| 91-cc-1795 | Kaplan, Gail | 1,140.00 |
| 31-CC-2011 | Youth Guidance | 2,014.84 |
| 91-CC-2018 | Amoco Oil Co. | 216.54 |
| 91-CC-2025 | Helping Care, Inc. | 25,304.83 |
| 91-CC-2102 | Community Care Systems, Inc. | 501.73 |
| 91-CC-2143 | Franko, Albert | 1,353.22 |
| 91-CC-2182 | Janson Reporting & Record Copy | 110.50 |
| 91-CC-2184 | Champaign County Nursing Home | 3,011.78 |
| 91-CC-2344 | South Suburban Access | 15,249.00 |
| 91-CC-2345 | Knowles, Wm. G., Construction Co. | 240.00 |

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| 91-CC-2412 | Wang Labs, Inc. | 29,540.50 |
| 91-CC-2413 | Wang Labs, Inc. | 9,828.00 |
| 91-CC-2443 | Visiting Nurse Association North | 7,733.19 |
| 91-CC-2452 | Community Care Systems, Inc. | 1,520.92 |
| 91-CC-2455 | Community Care Systems, Inc. | 440.58 |
| 91-CC-2465 | Community Care Systems, Inc. | 210.78 |
| 91-CC-2489 | Simons, Jack E., D.O. | 2,415.00 |
| 91-CC-2512 | Wiley Office Equipment Co. | 352.80 |
| 91-CC-2534 | Brown, Timothy, Psy.D. | 325.00 |
| 91-CC-2561 | Montgomery Ward Commercial | 58.96 |
| 91-CC-2563 | Carow Architects Planners | 6,094.90 |
| 91-CC-2570 | Herrera, Manuel, Jr. | 254.67 |
| 91-CC-2592 | Kemmerer Village, Inc. | 3,001.44 |
| 91-CC-2600 | De Marco Business Products | 110.25 |
| 91-CC-2601 | De Marco Business Products | 1,392.71 |
| 91-CC-2640 | Illinois Correctional Industries | 3,823.26 |
| 91-CC-2660 | Sunkara, U. R., M.D. | 297.65 |
| 91-CC-2685 | McHenry County Youth Service Bureau | 7,536.90 |
| 91-CC-2706 | Waukesha County Community Human Services Dept. | 300.00 |
| 91-CC-2722 | Continental Airlines | 135.00 |
| 91-CC-2780 | DuBose, Vera | 230.84 |
| 91-CC-2841 | Commerce Clearing House, Inc. | 300.00 |
| 91-CC-2868 | Midwest Law Printing Co. | 112.00 |
| 91-CC-2877 | Midwest Law Printing Co. | 730.30 |
| 91-CC-2878 | Midwest Law Printing Co. | 1,056.69 |
| 91-CC-2881 | Pullen, Penny | 84.00 |
| 91-CC-2983 | Goodyear Tire & Rubber Co., The | 304.65 |
| 91-CC-3138 | Community Home Services Plus, Inc. | 144.20 |
| 91-CC-3139 | Community Home Services Plus, Inc. | 70.92 |
| 91-CC-3168 | Prybyl, Marjorie Lynn | 137.78 |
| 91-CC-3191 | Southern Illinois University at Carbondale | 827.41 |
| 91-CC-3192 | Southern Illinois University at Carbondale | 193.91 |
| 91-CC-3193 | Southern Illinois University at Carbondale | 776.67 |
| 91-CC-3202 | Community Home Services Plus, Inc. | 102.54 |
| 91-CC-3212 | Northwest Airlines | 1,912.60 |
| 91-CC-3229 | Ball, Mary L. | 133.50 |
| 91-CC-3238 | IBM | 1,412.00 |
| 91-CC-3249 | Illinois, University of, Hospital | 4,317.40 |
| 91-CC-3258 | Donovan, Michael T. | 177.60 |
| 91-CC-3282 | GTE Telecom Marketing Corp. | 304.12 |

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| 91-CC-3285 | GTE Telecom Marketing Corp. | 7,744.12 |
| 91-CC-3286 | Novacom Systems, Inc. | 1,500.00 |
| 91-CC-3292 | Rodriguez, Monica | 760.00 |
| 91-CC-3297 | United States Electric Co. | 144.30 |
| 91-CC-3348 | Rucker Fluid Power, Inc. | 361.79 |
| 91-CC-3356 | Hope School | 1,787.30 |
| 91-CC-3357 | Hope School | 6,211.60 |
| 91-CC-3359 | Hope School | 3,880.82 |
| 91-CC-3361 | Ames Safety Envelope Co. | 807.14 |
| 91-CC-3381 | YMCA of Metropolitan Chicago | 5,783.05 |
| 91-CC-3413 | Royal Hotel of Carbondale, Inc. | 449.22 |
| 91-CC-3427 | Barker, Bob, Co. | 345.74 |
| 91-CC-3445 | Illini Sanitary Supply, Inc. | 51.75 |
| 91-CC-3455 | Goodyear Tire & Rubber Co. | 236.64 |
| 91-CC-3469 | Developmental Services Center | 372.80 |
| 91-cc-3475 | Edgewood Children's Center | 788.19 |
| 91-CC-3476 | Community Workshop & Training Center, Inc. | 6,173.53 |
| 91-CC-3479 | Sarco Mining Industry Service, Inc. | 64.82 |
| 91-CC-3494 | Kimberly Quality Care of Rockford | 46.00 |
| 91-CC-3495 | Kimberly Quality Care of Rockford | 30.04 |
| 91-CC-3506 | St. Mary's Hospital | 4,016.00 |
| 91-CC-3514 | Royal Hotel of Carbondale, Inc. | 5.00 |
| 91-CC-3554 | Chancellor Hotel & Convention Center | 44.40 |
| 91-CC-3561 | Moline Gymnastics Academy | 395.00 |
| 91-CC-3563 | Association for Retarded Citizens | 39,712.08 |
| 91-CC-3590 | Charles, Christine R. | 250.00 |
| 91-CC-3599 | Petty's Exterminating Co. | 250.00 |
| 91-CC-3604 | Ohm Remediation Services Corp. | 39,580.10 |
| 92-CC-0017 | United Methodist Children & Family Services of Missouri | 1,522.83 |
| 92-CC-0022 | Schmidt, James C. | 504.00 |
| 32-CC-0037 | Radio Shack | 166.65 |
| 92-CC-0096 | Capitol Plaza | 77.00 |
| 92-CC-0120 | Kellogg Sales Co. | 1,570.00 |
| 92-CC-0130 | Trans World Airlines, Inc. | 75.00 |
| 92-CC-0131 | Trans World Airlines, Inc. | 75.00 |
| 92-CC-0141 | E Z Lube, Inc. | 64.85 |
| 92-CC-0145 | Mathew, Donna Lea | 1,525.00 |
| 92-CC-0158 | Wright Marketing, Inc. | 14,316.40 |
| 92-CC-0161 | Collins, Lillian | 207.40 |

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| 92-CC-0162 | Casey's General Stores, Inc. | 30.48 |
| 92-CC-0170 | Christ Hospital | 970.00 |
| 92-CC-0189 | Porter, Leonard, Ph.D. | 470.28 |
| 92-CC-0199 | Sangamon State University | 116.50 |
| 92-cc-0200 | Brahler Tire Mart, Inc. | 62.35 |
| 92-CC-0212 | Goodyear Tire & Rubber Co. | 137.40 |
| 92-CC-0245 | Midwest Collection Service, Agent for South Bend Neurology | 120.00 |
| 92-CC-0248 | McCoy, James | 150.00 |
| 92-CC-0250 | Business Practice, Bureau of | 1,112.27 |
| 92-CC-0278 | Chicago Dictating | 148.75 |
| 92-CC-0280 | Baldwin Reporting Services | 207.80 |
| 92-CC-0370 | Dobosu, Kodzo | 655.00 |
| 92-CC-0381 | Wang Laboratories | 1,675.00 |
| 92-CC-0382 | C & E Bolt & Tool Co. | 3,721.88 |
| 92-CC-0398 | Kimberly Quality Care | 17.00 |
| 92-CC-0399 | Kimberly Quality Care | 8.00 |
| 92-CC-0401 | Orthopedic Physicians, Inc. | 3,765.00 |
| 92-CC-0402 | Delta Airlines, Inc. | 308.00 |
| 92-CC-0414 | Tandy Corp. | 6,026.68 |
| 92-CC-0442 | Harris, Bernard M. d/b/a Harris Auto Radiator | 3,086.50 |
| 92-CC-0454 | Concurrent Computer Corp. | 5,038.09 |
| 92-CC-0455 | Concurrent Computer Corp. | 11,822.48 |
| 92-CC-0457 | Concurrent Computer Corp. | 14,215.71 |
| 92-CC-0458 | Steer, Steven A., Dr. | 98.00 |
| 92-CC-0462 | Northwest Airlines | 211.00 |
| 92-CC-0463 | AT&T | 439.70 |
| 92-CC-0466 | Johnson, E. D., III, M.D. | 15.00 |
| 92-CC-0469 | Cusack & Fleming | 82.00 |
| 92-CC-0470 | Cusack & Fleming | 758.24 |
| 92-CC-0471 | Cusack & Fleming | 261.96 |
| 92-CC-0472 | Cusack & Fleming | 123.25 |
| 92-CC-0474 | Wiley Office Equipment Co. | 300.00 |
| 92-CC-0475 | Wiley Office Equipment Co. | 15,028.09 |
| 92-CC-0478 | Wiley Office Equipment Co. | 9,868.95 |
| 92-CC-0479 | Wiley Office Equipment Co. | 3,273.52 |
| 92-CC-0480 | Wiley Office Equipment Co. | 1,831.71 |
| 92-CC-0481 | Wiley Office Equipment Co. | 1,612.75 |
| 92-CC-0483 | Western Illinois University | 8,484.50 |
| 92-CC-0485 | Lutheran Social Services of Illinois | 12,291.08 |

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| 92-CC-0486 | Lutheran Social Services of Illinois | 106.56 |
| 92-CC-0490 | Lutheran Social Services of Illinois | 1,648.96 |
| 92-CC-0496 | Cass County Mental Health Assoc. | 662.48 |
| 92-CC-0512 | Delta Air Lines, Inc. | 1,542.00 |
| 92-CC-0518 | Western Illinois University | 399.00 |
| 92-CC-0519 | Western Illinois University | 545.25 |
| 92-CC-0520 | Western Illinois University | 406.50 |
| 92-CC-0521 | Western Illinois University | 405.75 |
| 92-CC-0522 | Western Illinois University | 147.00 |
| 92-CC-0532 | Wiley Office Equipment Co. | 390.00 |
| 92-CC-0533 | Ragan, Brad, Inc. | 140.00 |
| 92-cc-0537 | Lutheran Social Services of Illinois | 394.40 |
| 92-CC-0538 | Lutheran Social Senices of Illinois | 1,253.85 |
| 92-CC-0539 | Lutheran Social Services of Illinois | 158.96 |
| 92-cc-0540 | Lutheran Social Services of Illinois | 6,428.00 |
| 92-CC-0574 | Children's Home Assoc. of Illinois | 102.83 |
| 92-CC-0584 | Southwestern Bell Mobile Systems | 190.88 |
| 92-CC-0595 | Mitchell, Warren "Buddy" | 4.51 |
| 92-CC-0602 | Southern Illinois University School of Medicine | 40.00 |
| 92-CC-0608 | Capitol Machinery Co. | 147.20 |
| 92-CC-0616 | 1st of America Trust Co. | 403.85 |
| 92-CC-0654 | Cinders-Graham Ambulance Service, Inc. | 119.27 |
| 92-CC-0655 | Senger's Bottle Cas | 17.64 |
| 92-CC-0657 | Wiley Office Equipment Co. | 1,585.00 |
| 92-CC-0658 | X-ray Consultants, Inc. | 28.20 |
| 92-CC-0659 | Metropolitan Supply Co. | 24.87 |
| 92-CC-0677 | Lutheran Social Services of Illinois | 3,351.79 |
| 92-CC-0678 | Lutheran Social Services of Illinois | 5,616.34 |
| 92-CC-0679 | Lutheran Social Services of Illinois | 1,941.80 |
| 92-CC-0681 | Pitney Bowes | 92.00 |
| 92-CC-0682 | K & K Coating | 1,017.50 |
| 92-CC-0683 | Smith, Mark L., M.D. | 90.00 |
| 92-CC-0690 | Johnson, E. D., III, M.D. | 15.00 |
| 92-CC-0693 | Triad Industrial Supply Corp. | 1,311.95 |
| 92-CC-0694 | Little Grassy Hatchery | 339.52 |
| 92-CC-0695 | Sweatman, Kathleen | 30.00 |
| 92-CC-0696 | Bell & Howell Co. | 14,175.00 |
| 92-CC-0697 | Jacksonville, City of | 7,040.45 |
| 92-CC-0698 | Oracle Corp. | 6,255.50 |
| 92-CC-0699 | Edgar County Clerk & Recorder | 30.00 |

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| 92-CC-0700 | Seggelke, Rita | 80.18 |
| 92-CC-0706 | Burnett, Marjorie G. | 494.95 |
| 92-CC-0707 | Continental Airlines | 744.00 |
| 92-CC-0708 | Continental Airlines | 441.00 |
| 92-CC-0709 | Continental Airlines | 109.00 |
| 92-CC-0710 | Continental Airlines | 75.00 |
| 92-CC-0711 | Continental Airlines | 75.00 |
| 92-CC-0712 | Continental Airlines | 525.00 |
| 92-CC-0715 | Johnson County | 16.00 |
| 92-CC-0717 | Peny County Government | 15.00 |
| 92-CC-0719 | Affiliated Bank/North Shore National as Trustee U/T #884 | 296.75 |
| 92-CC-0723 | Wisecarver, Terry | 361.92 |
| 92-CC-0724 | Super 8 Lodge-South Springfield | 32.29 |
| 92-CC-0729 | Baldwin Reporting Services | 256.50 |
| 92-CC-0733 | Sammons, Fred, Inc. | 162.05 |
| 92-CC-0739 | Hinojosa, Miguel | 52.25 |
| 92-CC-0749 | O'Herron, Ray, Co. | 142.00 |
| 92-CC-0750 | **O'Herron,** Ray, *Co.* | 917.03 |
| 92-cc-0751 | O'Herron, Ray, Co. | 54.40 |
| 92-CC-0752 | O'Herron, Ray, Co. | 50.50 |
| 92-CC-0753 | O'Herron, Ray, Co. | 17.89 |
| 92-CC-0756 | National Federation of the Blind | 33.00 |
| 92-CC-0757 | Illinois, University of, Dept. of Neurology | 60.00 |
| 92-cc-0758 | Illinois, University of, Dept. of Neurology | 90.00 |
| 92-CC-0759 | Dick, A. B., Products Co. | 72.00 |
| 92-cc-0765 | Jermainne, Brian | 208.26 |
| 92-CC-0768 | Community & Economic Development Assn. | 29,849.85 |
| 92-CC-0769 | Arena Distributing Co. | 12.00 |
| 92-CC-0771 | Springfield Clinic | 100.00 |
| 92-CC-0772 | Springfield Clinic | 211.50 |
| 92-CC-0776 | Kelly Services | 269.80 |
| 92-CC-0812 | Sears, Roebuck & Co. | 613.86 |
| 92-cc-0815 | Mandel, Lipton & Stevenson, Ltd. | 658.00 |
| 92-cc-0816 | XLC Services | 1,047.10 |
| 92-CC-0819 | Illinois, University of | 541.00 |
| 92-CC-0828 | Golf Glen Mart Plaza | 3,556.23 |
| 92-CC-0830 | Kehler, Carola | 80.00 |
| 92-CC-0850 | McGinnis, C. Dirk | 8.00 |
| 92-CC-0851 | Bruce, Ladonna J. | 1,000.00 |
| 92-cc-0854 | Specialty Developmental Services, Inc. | |

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| | d/b/a Joshua Manor | 7,231.88 |
| 92-CC-0869 | Tremont Plaza Hotel | 709.90 |
| 92-CC-0871 | B & A Travel Services, Ltd. | 537.54 |
| 92-CC-0872 | B & A Travel Services, Ltd. | 507.90 |
| 92-CC-0877 | Beatty, Sherry A. | 149.00 |
| 92-CC-0887 | McSherry, Susan D. | 206.16 |
| 92-CC-0892 | Zelman, Steven J., M.D. | 24.84 |
| 92-CC-0904 | Precision Piping, Inc. | 1,106.62 |
| 92-CC-0907 | Cobb, John S. | 85.16 |
| 92-CC-0910 | Amtrak | 115.00 |
| 92-CC-0911 | Amtrak | 160.00 |
| 92-CC-0913 | Amtrak | 208.00 |
| 92-CC-0921 | Faul, Larry, Auto Body | 860.14 |
| 92-CC-0925 | Governors State University | 214.50 |
| 92-CC-0927 | West Publishing Co. | 419.75 |
| 92-CC-0939 | Landmark Ford | 531.29 |
| 92-CC-0944 | Kids " R Us; a Division of Toys " R Us, Inc. | 486.49 |
| 92-CC-0948 | Nolan, Neftali C. | 252.25 |
| 92-CC-0957 | Springfield Hilton Hotel | 53.90 |
| 92-CC-0966 | Fellowship House | 2,000.00 |
| 92-CC-0974 | Gauwitz, Renda L. | 439.00 |
| 92-CC-0976 | Ottawa Medical Center | 80.00 |
| 92-CC-0982 | Johnson County, Missouri; Division of Family Services | 1,005.64 |
| 92-CC-0995 | Aynots Learning Center | 1,350.00 |
| 92-cc-0998 | Belleville Radiologists, Ltd. | 47.00 |
| 92-CC-0999 | Michalik, Michael | 525.00 |
| 92-CC-1005 | Photography & Video by Alan Korte | 113.69 |
| 92-CC-1006 | Tension Envelope Corp. | 41,692.50 |
| 92-CC-1007 | Tension Envelope Corp. | 41,055.00 |
| 92-CC-1008 | Pitney Bowes | 215.50 |
| 92-CC-1011 | Video Service of America | 287.20 |
| 92-CC-1015 | BP Oil Co. | 13.97 |
| 92-CC-1016 | Omni Youth Services | 20,119.87 |
| 92-CC-1018 | Human Service Center | 5,780.00 |
| 92-CC-1021 | Environmental Science & Engineering, Inc. | 72,489.58 |
| 92-CC-1025 | Hampton Inn | 90.00 |
| 92-cc-1028 | Ushman Communications Co. | 834.40 |
| 92-CC-1030 | Ushman Communications Co. | 129.30 |
| 92-CC-1031 | Ushman Communications Co. | 2,276.24 |
| 92-CC-1032 | Franz. Arthur Gentz | 204.00 |

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| 92-CC-1033 | Schindler Elevator Corp. | 632.00 |
| 92-CC-1035 | Boyd Music Co. | S1.60 |
| 92-CC-1042 | Rodgers, Patricia | 90.00 |
| 92-CC-1044 | Illinois Correctional Industries | 286.00 |
| 92-cc-1045 | Illinois Correctional Industries | 445.00 |
| 92-CC-1047 | Smith Enterprises d/b/a Avis Rent-A-Car | 122.89 |
| 92-cc-1051 | Christopher, Judith | 282.00 |
| 92-cc-1053 | United Airlines, Inc. | 3,060.00 |
| 92-cc-1054 | Chicago Commons Association | 2,228.31 |
| 92-cc-1065 | Ivac Corp. | 439.30 |
| 92-CC-1067 | Apple Computer, Inc. | 161.39 |
| 92-CC-1068 | Davis Center for Emotional Development | 1,673.93 |
| 92-CC-1071 | Lutheran Social Services of Wisconsin & Upper Michigan, Inc. | 1,871.84 |
| 92-CC-1072 | Appleton, Helen P., Ph.D. | 328.10 |
| 92-CC-1077 | Regional Fleet Services | 34.98 |
| 92-CC-1078 | Regional Fleet Services | 42.57 |
| 92-CC-1081 | Willowglen Academy, Inc. | 75.42 |
| 92-CC-1083 | Jewel Food Stores, Inc. | 75.00 |
| 92-CC-1084 | Jewel Food Stores, Inc. | 75.00 |
| 92-CC-1085 | Jewel Food Stores, Inc. | 50.00 |
| 92-CC-1089 | Hinckley & Schmitt | 711.92 |
| 92-CC-1090 | Salvation Army Family Service Div., The | 1,149.10 |
| 92-cc-1095 | Phillips 66 Co. | 11.56 |
| 92-CC-1096 | Phillips 66 Co. | 31.70 |
| 92-CC-1097 | Vongsvivut, Arbha, M.D. | 22.00 |
| 92-CC-1098 | Fleming, Richard N. | 3,109.11 |
| 92-CC-1099 | Catholic Charities, Diocese of Rockford | 996.46 |
| 92-CC-1101 | Slimack, Nicholas, M.D. | 7.28 |
| 92-CC-1104 | Corlett, Marilyn | 87.50 |
| 92-cc-1106 | Carle Clinic Association | 55.00 |
| 92-cc-1108 | Days Inn | 108.06 |
| 92-cc-1109 | Scholarship& Guidance Association | 1,089.00 |
| 92-CC-1123 | McDonough County Rehabilitation Center | 1,536.00 |
| 92-cc-1126 | Hull House Assn. | 1,879.71 |
| 92-cc-1128 | Lawrence County Health Dept. | 2,566.65 |
| 92-CC-1130 | Koenig, Captain Gary | 32.99 |
| 92-CC-1138 | Illini Supply | 819.65 |
| 92-cc-1150 | Springfield Clinic | 1,816.00 |
| 92-CC-1155 | Ivey, Karen D. | 400.00 |
| 92-cc-1156 | Illini Supply | 358.89 |

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| 92-CC-1157 | Meyers on Chicago Ave., Inc. | 913.50 |
| 92-CC-1159 | Doerr, Ray E. | 237.60 |
| 92-CC-1161 | GTE Telecom Marketing Corp. | 3,871.00 |
| 92-CC-1162 | GTE Telecom Marketing Corp. | 3,266.00 |
| 92-CC-1163 | GTE Telecom Marketing Corp. | 3,932.24 |
| 92-CC-1164 | GTE Telecom Marketing Corp. | 82.50 |
| 92-CC-1165 | GTE Telecom Marketing Corp. | 4,288.55 |
| 92-CC-1166 | GTE Telecom Marketing Corp. | 3,668.81 |
| 92-CC-1167 | GTE Telecom Marketing Corp. | 81.00 |
| 92-CC-1168 | GTE Telecom Marketing Corp. | 79.00 |
| 92-CC-1169 | GTE Telecom Marketing Corp. | 107.50 |
| 92-CC-1170 | GTE Telecom Marketing Corp. | 120.00 |
| 92-CC-1171 | GTE Telecom Marketing Corp. | 79.00 |
| 92-CC-1172 | GTE Telecom Marketing Corp. | 107.50 |
| 92-CC-1173 | GTE Telecom Marketing *Corp.* | 61.00 |
| 92-CC-1175 | GTE Telecom Marketing *Corp.* | 122.00 |
| 92-CC-1176 | GTE Telecom Marketing Corp. | 27.00 |
| 92-CC-1177 | GTE Telecom Marketing Corp. | 27.00 |
| 92-CC-1178 | GTE Telecom Marketing *Corp.* | 27.00 |
| 92-CC-1179 | GTE Telecom Marketing Corp. | 27.00 |
| 92-CC-1205 | O'Donnell, James J. | 478.96 |
| 92-CC-1206 | Kinney, Seana | 250.00 |
| 92-CC-1209 | Wilkins, Patricia | 120.00 |
| 92-CC-1210 | Royal Hotel of Springfield South Plaza, Inc. | 84.80 |
| 92-CC-1215 | Chapman, Ida | 283.92 |
| 92-CC-1222 | Help At Home, Inc. | 1,996.23 |
| 92-CC-1225 | Photo Resource Center | 587.81 |
| 92-CC-1226 | Pronto Travel Agency | 78.00 |
| 92-CC-1229 | Wiley Office Equipment Co. | 2,947.35 |
| 92-CC-1230 | Wiley Office Equipment Co. | 180.96 |
| 92-CC-1231 | Wiley Office Equipment Co. | 1,539.93 |
| 92-CC-1232 | Wiley Office Equipment Co. | 81.00 |
| 92-CC-1246 | Homemakers, Inc. | 289.13 |
| 92-CC-1247 | Neutron Industries, Inc. | 51.54 |
| 92-CC-1248 | Executone | 6,878.05 |
| 92-cc-1254 | Marus Cardiology c/o Mary **L.** Klodnycky, M.D. | 3,320.00 |
| 92-CC-1257 | Illinois Correctional Industries | 12,643.26 |
| 92-CC-1259 | Fisher Business Equipment | 240.09 |
| 92-CC-1261 | Lutheran Social Services of Illinois | 4,409.54 |
| 92-CC-1265 | Stan the Tire Man | 26.80 |

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| 92-CC-1268 | Northwest Airlines | 667.00 |
| 92-CC-1270 | Evans, Louise | 40.00 |
| 92-CC-1281 | Martin, Clearetha | 1,189.82 |
| 92-CC-1283 | Shonkwiler, John P. | 14.40 |
| 92-CC-1296 | Cooley, Carol | 171.60 |
| 92-CC-1312 | City International Trucks, Inc. | 118.29 |
| 92-CC-1314 | International Language & Communications Centers, Inc. | 260.00 |
| 92-CC-1316 | Simplex Time Recorder Co. | 5,212.85 |
| 92-CC-1321 | Soderlund Brothers, Inc. | 29,120.20 |
| 92-CC-1322 | Soderlund Brothers, Inc. | 2,399.86 |
| 92-CC-1323 | Soderlund Brothers, Inc. | 9,272.25 |
| 92-CC-1324 | Ushman Communications Co. | 756.00 |
| 92-CC-1327 | Halcli, Albert | 186.25 |
| 92-CC-1336 | Otten, Julie K. | 229.00 |
| 92-CC-1339 | Anixter Distribution | 1,581.26 |
| 92-CC-1342 | Egghead Discount Software | 1,008.00 |
| 92-CC-1344 | Waldenbooks | 55.76 |
| 92-CC-1345 | Waldenbooks | 38.21 |
| 92-CC-1346 | Waldenbooks | 25.46 |
| 92-cc-1350 | Quaker State Minit-Lube | 49.80 |
| 92-cc-1351 | Eighmy Machinery Inc. | 253.25 |
| 92-CC-1375 | Xerox Corp. | 5,009.92 |
| 92-CC-1376 | Xerox Corp. | 3,643.87 |
| 92-CC-1378 | Xerox Corp. | 189.75 |
| 92-CC-1379 | Xerox Corp. | 2,025.96 |
| 92-CC-1382 | Xerox Corp. | 258.35 |
| 92-CC-1383 | Xerox Corp. | 395.00 |
| 92-CC-1384 | Xerox Corp. | 57.50 |
| 92-CC-1385 | Xerox Corp. | 133.00 |
| 92-CC-1386 | Xerox Corp. | 125.00 |
| 92-CC-1388 | Xerox Corp. | 120.00 |
| 92-CC-1400 | Gonzalez, Kathleen | 561.95 |
| 92-CC-1402 | Davis Center for Emotional Development | 464.04 |
| 92-CC-1404 | Medcentre Laboratories | 86.00 |
| 92-CC-1407 | Medcentre Laboratories | 13.00 |
| 92-CC-1408 | Jewel Food Stores, Inc. | 9.84 |
| 92-CC-1409 | Jewel Food Stores, Inc. | 8.22 |
| 92-CC-1410 | Jewel Food Stores, Inc. | 46.25 |
| 92-CC-1411 | Jewel Food Stores, Inc. | 60.00 |
| 92-CC-1412 | Jewel Food Stores, Inc. | 9.95 |

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| 92-CC-1413 | Jewel Food Stores, Inc. | 60.00 |
| 92-CC-1425 | Wright, Milt, & Assoc. | 2,178.00 |
| 92-CC-1426 | Harrison, Vicki | 3.55 |
| 92-CC-1428 | Community Workshop & Training Center, Inc. | 786.54 |
| 92-CC-1429 | Community Workshop & Training Center, Inc. | 919.02 |
| 92-CC-1430 | Community Workshop &Training Center, Inc. | 673.56 |
| 92-CC-1431 | Community Workshop & Training Center, Inc. | 613.05 |
| 92-CC-1433 | White, Ollie | 275.84 |
| 92-CC-1434 | Humana Hospital-Michael Reese | 3,397.13 |
| 92-CC-1437 | Taylor Motor Co. | 18.99 |
| 92-CC-1439 | Donohue, Mary **E.** | 158.18 |
| 92-CC-1440 | Buffalo Grove Park District | 250.00 |
| 92-CC-1443 | West Publishing Co. | 242.00 |
| 92-cc-1445 | Unocal | 6.61 |
| 92-CC-1447 | Unocal | 12.28 |
| 92-CC-1448 | Hennepin County Home School | 148.90 |
| 92-CC-1450 | Harris, Deborah | 77.00 |
| 92-cc-1454 | Venture, Inc. | 254.79 |
| 92-CC-1459 | Smith, Jr., Rev. Leroy | 110.00 |
| 92-CC-1466 | Drendel, Mark Allen | 8,131.97 |
| 92-CC-1470 | Deitz, Marian, Psy.D. | 400.00 |
| 92-CC-1471 | Lutheran Child & Family Services of Illinois | 5,400.00 |
| 92-CC-1473 | Jackura, Paul | 34.48 |
| 92-cc-1475 | Whitehead, Ruthshell | 361.29 |
| 92-CC-1488 | Builders Square, Inc. | 615.36 |
| 92-CC-1492 | Walch Electric | 331.06 |
| 92-CC-1493 | Illini Supply, Inc. | 153.12 |
| 92-CC-1496 | Anderson, Robert J. | 633.57 |
| 92-CC-1498 | CADCO | 1,446.80 |
| 92-CC-1500 | Fermaint, David D. | 808.84 |
| 92-cc-1502 | Prairie International Trucks | 620.32 |
| 92-cc-1503 | IBM Corp. | 3,828.00 |
| 92-cc-1506 | St. Coletta School | 787.50 |
| 92-cc-1507 | St. Coletta School | 787.50 |
| 92-cc-1509 | St. Coletta School | 787.50 |
| 92-cc-1510 | Office Plus Creative Business Forms | 37.90 |
| 92-cc-1511 | Springfield Clinic | 2,064.00 |
| 92-cc-1516 | Ali, Rosa Nelly | 50.46 |
| 92-CC-1518 | Kids "R" Us; a Division of Toys "R" **Us** | 75.00 |
| 92-cc-1522 | Goodwin, Elizabeth | 207.00 |
| 92-cc-1527 | Cordray, Monte **L.,** M.D. | 20.00 |

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| 92-cc-1529 | Lutheran Child & Family Services of Illinois | 558.04 |
| 92-cc-1532 | Watseka, City of | 62.70 |
| 92-cc-1555 | BP Oil Co. | 10.74 |
| 92-cc-1557 | Portland Public Schools | 120.00 |
| 92-CC-1558 | Bachrodt, Lou, Chevrolet | 50.06 |
| 92-cc-1561 | Southern Illinois University at Carbondale | 401.00 |
| 92-CC-1563 | Blessman, William R. | 93.00 |
| 92-CC-1564 | Touchstone | 181.05 |
| 92-CC-1565 | Clonan, Joan C. | 142.80 |
| 92-CC-1569 | **Durst,** Kelly | 6.00 |
| 92-cc-1570 | Hanes, James W. | 5.52 |
| 92-cc-1572 | Timbrook, Donna D. | 30.24 |
| 92-CC-1573 | Beeney, Susan J. | 26.40 |
| 92-cc-1574 | FKG Oil Co. | 16.90 |
| 92-CC-1576 | Etzell, Suzanne | 231.70 |
| 92-CC-1578 | Smith, Todd | 842.94 |
| 92-CC-1587 | Telecom Management, Inc. | 6,124.00 |
| 92-CC-1609 | St. Mary's Hospital | 82.67 |
| 92-CC-1616 | **BP** Oil Co. | **167.07** |
| 92-CC-1621 | Woodruff & Associates | 990.00 |
| 92-CC-1622 | Mellor, Karen | 40.00 |
| 92-CC-1623 | Eighrny Machinery, Inc. | 329.95 |
| 92-CC-1626 | Factory Bedding | 274.00 |
| 92-CC-1627 | Factory Bedding | 179.00 |
| 92-CC-1629 | Pineda, Jose D., M.D. | 75.00 |
| 92-CC-1632 | Nexus, Inc. | 3,004.08 |
| 92-CC-1642 | Golembeck Reporting Service | 153.50 |
| 92-CC-1644 | Western Du Page Special Recreation Assn. | 570.00 |
| 92-CC-1645 | Smith, Emma G. | 484.50 |
| 92-CC-1647 | Freeway Ford Truck Sales | 42.87 |
| 92-CC-1648 | Overland Transportation | 135.88 |
| 92-CC-1650 | St. Coletta School | 559.90 |
| 92-CC-1651 | St. Coletta School | 559.90 |
| 92-CC-1652 | St. Coletta School | 559.90 |
| 92-CC-1653 | St. Coletta School | 559.90 |
| 92-CC-1654 | St. Coletta School | 559.90 |
| 92-CC-1655 | St. Coletta School | 223.58 |
| 92-CC-1656 | St. Coletta School | 223.58 |
| 92-CC-1657 | St. Coletta School | 232.26 |
| 92-CC-1658 | St. Coletta School | 931.84 |
| 92-CC-1659 | St. Coletta School | 1,152.42 |

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| 92-CC-1661 | Great Lakes Psychological Services | 510.00 |
| 92-CC-1662 | Great Lakes Psychological Services | 510.00 |
| 92-CC-1663 | Illinois Oil Products, Inc. | 630.30 |
| 92-CC-1666 | Family Care Services of Metropolitan Chicago | 5,456.93 |
| 92-CC-1667 | Family Care Services of Metropolitan Chicago | 28,999.96 |
| 92-CC-1668 | Family Care Services of Metropolitan Chicago | 3,339.80 |
| 92-CC-1671 | Community College Dist. #508, Board of Trustees of | 254.00 |
| 92-CC-1672 | Community College Dist. #508, Board of Trustees of | 32.00 |
| 92-CC-1673 | Community College Dist. #508, Board of Trustees of | 410.00 |
| 92-CC-1674 | Community College Dist. #508, Board of Trustees of | 124.00 |
| 92-CC-1675 | Community College Dist. #508, Board of Trustees of | 78.99 |
| 92-CC-1676 | Community College Dist. #508, Board of Trustees of | 150.00 |
| 92-CC-1677 | Community College Dist. #508, Board of Trustees of | 280.00 |
| 92-CC-1678 | Community College Dist. #508, Board of Trustees of | 358.00 |
| 92-CC-1679 | Community College Dist. #508, Board of Trustees of | 202.00 |
| 92-CC-1680 | Community College Dist. #508, Board of Trustees of | 202.00 |
| 92-CC-1681 | Community College Dist. #508, Board of Trustees of | 254.00 |
| 92-CC-1682 | Community College Dist. #508, Board of Trustees of | 254.00 |
| 92-CC-1684 | Community College Dist. #508, Board of Trustees of | 176.00 |
| 92-CC-1687 | Community College Dist. #508, Board of Trustees of | 98.00 |
| 92-CC-1696 | Ellis, Patricia B. | 3.36 |
| 92-CC-1698 | Morris, John A. | 138.18 |
| 92-CC-1699 | Tedder, Bonnie F. | 250.00 |
| 92-CC-1700 | Tedder, Bonnie F. | 250.00 |
| 92-CC-1701 | Boone, Charles C. | 250.00 |
| 92-CC-1702 | Boone, Charles C. | 250.00 |
| 92-CC-1706 | Coale, Donald H. | 21.78 |

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| 92-CC-1712 | Lumex, Inc. | 4,845.00 |
| 92-CC-1715 | Lincoln Plaza | 148.50 |
| 92-CC-1728 | Pryor, Lavern | 120.36 |
| 92-CC-1731 | Family Health Centre of Sparta, Ltd. | 164.23 |
| 92-CC-1733 | Xerox Corp. | 115.20 |
| 92-CC-1735 | Kwapis, Dyer, Knox & Miller, Ltd. | 1,338.00 |
| 92-CC-1736 | White, Jacqueline J. Adams | 300.80 |
| 92-CC-1738 | Mid Central Community Action, Inc. | 1,288.56 |
| 92-CC-1739 | Mid Central Community Action, Inc | 1,301.84 |
| 92-CC-1741 | Mid Central Community Action, Inc | 446.82 |
| 92-CC-1742 | Baxter, Karen | 80.00 |
| 92-CC-1745 | Supelco, Inc. | 202.51 |
| 92-CC-1746 | Nat'l Assoc. of State Mental Retardation Program Directors | 1,600.00 |
| 92-CC-1751 | Midwest Petroleum Co. | 17.93 |
| 92-CC-1752 | Empire Cooler Service, Inc. | 144.00 |
| 92-CC-1755 | Perry Developers, Inc. d/b/a Best Western Colonial Inn | 235.20 |
| 92-CC-1756 | Uhlich Children's Home | 396.00 |
| 92-CC-1757 | Uhlich Children's Home | 387.00 |
| 92-CC-1758 | Lincoln Plaza Hotel | 52.80 |
| 92-CC-1766 | Farrey, Darlene | 1,265.00 |
| 92-CC-1767 | BP Oil Co. | 50.75 |
| 92-CC-1768 | BP Oil Co. | 49.72 |
| 92-CC-1769 | Rockford Memorial | 3,000.00 |
| 92-CC-1770 | Huber Pontiac-Subaru, Inc. | 335.57 |
| 92-CC-1771 | Safelite Class Corp. | 149.63 |
| 92-CC-1773 | Stolleis, Norma Jean | 416.00 |
| 92-CC-1777 | Prickett, Thomas A., & Assoc. | 250.00 |
| 92-CC-1791 | Ward Oil Co. | 598.52 |
| 92-CC-1792 | Mt. Vernon Elevator Co. | 53.53 |
| 92-CC-1795 | Geotronics of North America, Inc. | 143.81 |
| 92-CC-1796 | Urban League of Champaign County | 270.00 |
| 92-CC-1812 | Geneseo Development & Growth, Inc. | 885.50 |
| 92-CC-1813 | Nemani, Sajjan K., M.D. | 75.00 |
| 92-CC-1814 | Nemani, Sajjan K., M.D. | 35.00 |
| 92-CC-1817 | Kaplan, Gail, Ph.D. | 910.00 |
| 92-CC-1820 | Myers, R. D., & Associates Builders, Inc. | 2,953.00 |
| 92-CC-1821 | Unity Shelter, Inc. | 36,820.56 |
| 92-CC-1830 | Morrissey, Elsie C. | 167.60 |
| 92-CC-1831 | Brewster, Sharon | 225.00 |

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| 92-CC-1841 | Russell, Terry V. | 627.99 |
| 92-CC-1842 | McKendree College | 1,500.00 |
| 92-CC-1843 | Caseys General Stores | 14.55 |
| 92-CC-1846 | Trowbridge, Michelle | 104.34 |
| 92-CC-1848 | Wilkins, Patricia | 2,700.00 |
| 92-CC-1849 | Jackson, Nicole | 264.14 |
| 92-CC-1851 | Victory Memorial Hospital | 10,468.26 |
| 92-CC-1852 | Flatt, Truman L., & Sons, Inc. | 4,990.00 |
| 92-CC-1853 | Flatt, Truman L., & Sons, Inc. | 4,990.00 |
| 92-cc-1855 | Krause, Sue Ellen, Ph.D. | 560.00 |
| 92-CC-1858 | Kaskaskia College | 508.50 |
| 92-cc-1859 | Worldwide Mechanical, Inc. | 76.50 |
| 92-CC-1864 | Siemens Nixdorf Information Systems | 375.00 |
| 92-CC-1894 | Community College Dist. #508, Board of Trustees of | 332.00 |
| 92-CC-1895 | Community College Dist. #508, Board of Trustees of | 176.00 |
| 92-CC-1896 | Community College Dist. #508, Board of Trustees of | 254.00 |
| 92-CC-1898 | Miller, Thomas W. | 70.75 |
| 92-CC-1901 | Carreras, Pura M. | 311.00 |
| 92-CC-1903 | Industrial Chemical Co. | 204.20 |
| 92-CC-1904 | Industrial Chemical Co. | 119.60 |
| 92-CC-1906 | Keller, Jane E. | 161.95 |
| 92-CC-1907 | Bacon & Van Buskirk Glass Co. | 9.50 |
| 92-CC-1908 | Bacon & Van Buskirk Glass Co. | 20.64 |
| 92-CC-1909 | Bacon & Van Buskirk Glass Co. | 77.21 |
| 92-cc-1910 | Bacon & Van Buskirk Glass Co. | 5.55 |
| 92-CC-1911 | Bacon & Van Buskirk Glass Co. | **20.06** |
| 92-CC-1912 | Bacon & Van Buskirk Glass Co. | 130.80 |
| 92-CC-1913 | Bacon & Van Buskirk Glass Co. | 44.06 |
| 92-CC-1914 | Bacon & Van Buskirk Glass Co. | 23.22 |
| 92-cc-1915 | Bacon & Van Buskirk Glass Co. | 23.18 |
| 92-CC-1916 | Bacon & Van Buskirk Glass Co. | 149.00 |
| 92-CC-1917 | Bacon & Van Buskirk Glass Co. | 19.20 |
| 92-CC-1918 | Bacon & Van Buskirk Glass Co. | 110.08 |
| 92-CC-1919 | Bacon & Van Buskirk Glass Co. | 12.05 |
| 92-CC-1920 | Bacon & Van Buskirk Glass Co. | 78.08 |
| 92-cc-1921 | Bacon & Van Buskirk Glass Co. | 119.80 |
| 92-CC-1922 | Bacon & Van Buskirk Glass Co. | 55.04 |
| 92-CC-1923 | Bacon & Van Buskirk Glass Co. | 5.20 |

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| 92-CC-1924 | Bacon & Van Buskirk Glass Co. | 31.20 |
| 92-CC-1925 | Bacon & Van Buskirk Glass Co. | 110.08 |
| 92-CC-1926 | Bacon & Van Buskirk Glass Co. | 137.60 |
| 92-CC-1928 | Christian County Farmers Supply Co. | 19.49 |
| 92-CC-1929 | Christian County Farmers Supply Co. | 21.00 |
| 92-CC-1930 | Christian County Farmers Supply Co. | 18.00 |
| 92-CC-1931 | Christian County Farmers Supply Co. | 19.25 |
| 92-CC-1932 | Christian County Farmers Supply Co. | 16.60 |
| 92-CC-1933 | Christian County Farmers Supply Co. | 21.50 |
| 92-CC-1934 | Christian County Farmers Supply Co. | 25.50 |
| 92-CC-1938 | Able Sewerage Co. | 250.00 |
| 92-CC-1939 | Bahner, Cynthia L. | 38.00 |
| 92-CC-1941 | Idea Courier | 1,310.35 |
| 92-CC-1942 | American Discount Office Supply | 1,751.00 |
| 92-CC-1943 | Pheasant Run Resort | 3,095.94 |
| 92-CC-1944 | Brulc, Lillian | 2,500.00 |
| 92-CC-1945 | Industrial Chemical Co. | 213.60 |
| 92-CC-1956 | Al-Rob's Fashions, Inc. | 150.00 |
| 92-CC-1957 | Red Roof Inns, Inc. | 114.16 |
| 92-cc-1958 | Red Roof Inns, Inc. | 235.65 |
| 92-CC-1960 | Photo & Sound Co. | 468.33 |
| 92-CC-1963 | Faul, Larry, Chrysler Plymouth, Inc. | 1,228.89 |
| 92-CC-1964 | Catholic Social Service of Peoria | 900.00 |
| 92-CC-1965 | Catholic Social Service of Peoria | 700.00 |
| 92-CC-1966 | Catholic Social Service of Peoria | 162.61 |
| 92-CC-1967 | Catholic Social Service of Peoria | 5,644.24 |
| 92-CC-1971 | Catholic Social Service of Peoria | 912.24 |
| 92-CC-1973 | Catholic Social Service of Peoria | 1,881.52 |
| 92-CC-1980 | Catholic Social Service of Peoria | 34.80 |
| 92-CC-1993 | Smithkline Beecham Clinical Laboratories | 497.37 |
| 92-cc-1998 | Mark, Norman E., Court Reporter Service | 64.15 |
| 92-CC-1999 | Bennett Reinsurance Consultants | 1,147.20 |
| 92-CC-2005 | Illinois Power Co. | 25,168.28 |
| 92-CC-2038 | Southern Illinois University at Carbondale | 954.84 |
| 92-CC-2040 | Southern Illinois University at Carbondale | 111.75 |
| 92-CC-2049 | Franklin-Williamson Human Services, Inc. | 25,000.00 |
| 92-CC-2051 | Amoco Oil Co. | 12,418.58 |
| 92-CC-2052 | Roberts, Devorah | 188.56 |
| 92-CC-2056 | Moline Gymnastics Academy | 200.00 |
| 92-CC-2068 | Professional Nurses Bureau | 870.10 |
| 92-CC-2070 | Utlaut, Edward A., Memorial Hospital, Inc. | 55.00 |

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| 92-CC-2074 | Senger, Marsha A. | 14.84 |
| 92-CC-2076 | Friendly Chevrolet, Inc. | 186.92 |
| 92-CC-2079 | Globe Glass & Mirror | 104.85 |
| 92-CC-2081 | Hunt, Gloria | 78.40 |
| 92-CC-2082 | Hunt, Gloria | 98.56 |
| 92-CC-2083 | Hunt, Gloria | 58.88 |
| 92-CC-2084 | Hunt, Gloria | 73.84 |
| 92-CC-2085 | Hunt, Gloria | 96.88 |
| 92-CC-2086 | Hunt, Gloria | 39.92 |
| 92-CC-2087 | Hunt, Gloria | 72.80 |
| 92-CC-2088 | Hunt, Gloria | 45.92 |
| 92-CC-2089 | Allen, Margaret | 800.00 |
| 92-CC-2091 | **BP** Oil | 114.72 |
| 92-CC-2093 | Spinner Plastics, Inc. | 1,455.00 |
| 92-CC-2094 | Geupel Demars, Inc. | 62,609.26 |
| 92-CC-2096 | Wiley Office Equipment ***Co.*** | 24.00 |
| 92-CC-2097 | Wiley Office Equipment Co. | 25.00 |
| 92-CC-2098 | Wiley Office Equipment Co. | 14.00 |
| 92-CC-2099 | Wiley Office Equipment Co. | 264.46 |
| 92-CC-2100 | Wiley Office Equipment Co. | 27.50 |
| 92-CC-2101 | Wiley Office Equipment Co. | 27.50 |
| 92-CC-2102 | Wiley Office Equipment Co. | 1,140.00 |
| 92-CC-2104 | Wiley Office Equipment Co. | 112.00 |
| 92-CC-2105 | Wiley Office Equipment Co. | 27.50 |
| 92-CC-2106 | Wiley Office Equipment Co. | 14.00 |
| 92-CC-2107 | Wiley Office Equipment Co. | 56.00 |
| 92-CC-2108 | Wiley Office Equipment Co. | 14.00 |
| 92-CC-2116 | Capital **City** Thermo King | 87.76 |
| 92-CC-2118 | Music Center of the North Shore/ITA | 280.00 |
| 92-CC-2119 | Washington International Insurance Co. | 3,179.65 |
| 92-CC-2120 | Human Enrichment & Developmental Assn. | 1,800.00 |
| 92-CC-2121 | Human Enrichment & Developmental Assn. | 1,800.00 |
| 92-CC-2122 | Human Enrichment & Developmentd Assn. | 1,800.00 |
| 92-CC-2123 | Human Enrichment & Developmental Assn. | 1,800.00 |
| 92-CC-2124 | Hagedorn & Gannon Co. | 2,070.00 |
| 92-CC-2125 | Hagedorn & Gannon Co. | 8,400.00 |
| 92-CC-2126 | Hagedorn & Gannon Co. | 4,984.00 |
| 92-CC-2127 | Colson Co. | 576.23 |
| 92-CC-2128 | Cooper, Miki | 97.92 |
| 92-CC-2129 | Waddell, Inc. | 96.46 |
| 92-CC-2130 | Nowinski, **V.,** Psy.D. | 281.25 |

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| 92-CC-2135 | Troutman, Bruce A. | 21.42 |
| 92-CC-2137 | Color Tile Corp. | 36.79 |
| 92-CC-2142 | Community Counseling Services, A Div. of Morgan County Health Dept. | 150.00 |
| 92-CC-2143 | Community Counseling Services, A Div. of Morgan County Health Dept. | 258.00 |
| 92-CC-2146 | Help At Home, Inc. | 1,940.60 |
| 92-CC-2147 | Help At Home, Inc. | 3,627.44 |
| 92-CC-2149 | Help At Home, Inc. | 504.50 |
| 92-CC-2152 | Kelly Services, Inc. | 214.50 |
| 92-CC-2157 | Kalish, Barbara | 150.00 |
| 92-CC-2158 | Commerce Clearing House, Inc. | 630.00 |
| 92-CC-2162 | Torres, Virginia | 250.00 |
| 92-CC-2163 | Southern Illinois University at Carbondale | 432.30 |
| 92-CC-2178 | Sangamon County Regional Office of Education | 183.00 |
| 92-CC-2179 | Bismarck Hotel | 156.00 |
| 92-CC-2180 | Bismarck Hotel | 82.40 |
| 92-CC-2182 | Bismarck Hotel | 106.78 |
| 92-CC-2184 | Bismarck Hotel | 2,408.92 |
| 92-CC-2193 | Taylorville Correctional Center | 699.00 |
| 92-CC-2194 | Kelly Services, Inc. | 216.05 |
| 92-CC-2200 | Riggs, Bradner | 42.52 |
| 92-CC-2202 | Prince & Princess Day Care Center, Inc. | 460.00 |
| 92-CC-2203 | Goodyear Tire & Rubber Co. | 169.36 |
| 92-CC-2205 | Illinois at Chicago, University of | 80.00 |
| 92-CC-2206 | Illinois at Chicago, University of | 2,269.68 |
| 92-CC-2207 | Illinois at Chicago, University of | 7,107.78 |
| 92-CC-2211 | Haskin & Taylor, P.C. | 1,166.50 |
| 92-CC-2212 | K's Merchandise | 8.62 |
| 92-CC-2213 | GTE Telecom Marketing Corp. | 408.55 |
| 92-CC-2214 | Mt. Sinai Hospital Medical Center | 4,150.00 |
| 92-CC-2215 | Mt. Sinai Hospital Medical Center | 4,980.00 |
| 92-CC-2216 | Mt. Sinai Hospital Medical Center | 2,905.00 |
| 92-CC-2217 | Mt. Sinai Hospital Medical Center | 2,075.00 |
| 92-cc-2218 | Mt. Sinai Hospital Medical Center | 830.00 |
| 92-CC-2219 | Mt. Sinai Hospital Medical Center | 1,245.00 |
| 92-CC-2220 | Mt. Sinai Hospital Medical Center | 4,150.00 |
| 92-CC-2221 | Mt. Sinai Hospital Medical Center | 2,490.00 |
| 92-cc-2222 | Mt. Sinai Hospital Medical Center | 4,150.00 |
| 92-CC-2223 | Mt. Sinai Hospital Medical Center | 7,470.00 |
| 92-CC-2224 | Mt. Sinai Hospital Medical Center | 9,130.00 |

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| 92-CC-2225 | Mt. Sinai Hospital Medical Center | 8,300.00 |
| 92-CC-2226 | Mt. Sinai Hospital Medical Center | 6,225.00 |
| 92-CC-2227 | Mt. Sinai Hospital Medical Center | 6,225.00 |
| 92-cc-2228 | Mt. Sinai Hospital Medical Center | 6,640.00 |
| 92-CC-2229 | Mt. Sinai Hospital Medical Center | 2,490.00 |
| 92-CC-2230 | Mt. Sinai Hospital Medical Center | 6,640.00 |
| 92-CC-2231 | Mt. Sinai Hospital Medical Center | 830.00 |
| 92-CC-2232 | Mt. Sinai Hospitd Medical Center | 1,660.00 |
| 92-CC-2233 | Mt. Sinai Hospital Medical Center | 4,565.00 |
| 92-CC-2234 | Mt. Sinai Hospital Medical Center | 3,735.00 |
| 92-CC-2235 | Mt. Sinai Hospital Medical Center | 1,245.00 |
| 92-CC-2236 | Mt. Sinai Hospital Medical Center | 1,245.00 |
| 92-CC-2237 | Mt. Sinai Hospital Medical Center | 3,735.00 |
| 92-CC-2238 | Mt. Sinai Hospital Medical Center | 1,245.00 |
| 92-CC-2241 | Hillsboro Shell | 50.00 |
| 92-CC-2243 | Community Support **Services,** Inc. | 375.00 |
| 92-CC-2245 | HPI International, Inc. | 49.00 |
| 92-CC-2249 | Holiday Inn—Collinsville | 217.56 |
| 92-CC-2250 | Holiday Inn—Collinsville | 190.00 |
| 92-CC-2251 | Holiday Inn—Collinsville | 70.20 |
| 92-CC-2252 | Waukegan, City of | 50,260.64 |
| 92-CC-2253 | Lane Service Co. | 357.00 |
| 92-CC-2254 | McKay Music | 223.50 |
| 92-CC-2260 | Fernandez, Edwarado | 463.44 |
| 92-CC-2271 | Vanhorn, Gloria | 60.96 |
| 92-CC-2272 | Vanhom, Gloria | 158.88 |
| 92-CC-2273 | Vanhom, Gloria | 89.28 |
| 92-CC-2274 | Vanhorn, Gloria | 187.58 |
| 92-CC-2275 | Vanhorn, Gloria | 71.52 |
| 92-CC-2278 | Ram Industries | 706.80 |
| 92-CC-2280 | Marathon Oil Co. | 58.80 |
| 92-CC-2281 | Marathon Oil Co. | 12.81 |
| 92-CC-2300 | Blass, Sherry | 201.50 |
| 92-CC-2308 | Krueger, Thomas P., **M.D.** | 20.00 |
| 92-CC-2310 | Lutheran Child & Family Services of Illinois | 375.00 |
| 92-CC-2311 | Bolin, Leon R. | 546.92 |
| 92-CC-2312 | Bolin, Leon R. | 126.00 |
| 92-CC-2315 | Xerox Corp. | 160.99 |
| 92-CC-2316 | Xerox Corp. | 467.41 |
| 92-CC-2323 | Northern Illinois University | 40.00 |
| 92-CC-2326 | Murphy, F. J., & Son, Inc. | 979.44 |

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| 92-CC-2327 | Lawyers Cooperative Publishing | 1,487.85 |
| 92-CC-2338 | Kemmerer Village | 1,953.06 |
| 92-CC-2350 | GTE Telecom Marketing Corp. | 290.69 |
| 92-CC-2351 | GTE Telecom Marketing Corp. | 218.85 |
| 92-CC-2352 | GTE Telecom Marketing Corp. | 960.00 |
| 92-cc-2353 | Jackson, Jerrie | 120.32 |
| 92-CC-2355 | Hinckley & Schmitt | 43.45 |
| 92-CC-2358 | Help At Home, Inc. | 285.00 |
| 92-CC-2361 | Flink Co. | 14,012.00 |
| 92-CC-2362 | Flink Co. | 9,114.00 |
| 92-CC-2363 | Flink Co. | 15,328.00 |
| 92-CC-2367 | Jimenez, Bernice | 100.00 |
| 92-CC-2374 | Hallof, Katherina | 105.00 |
| 92-CC-2375 | Lee Paper Co. | 40.02 |
| 92-CC-2376 | Executive Maintenance Corp. | 667.68 |
| 92-CC-2377 | Executive Maintenance Corp. | 400.99 |
| 92-CC-2380 | Chicago Communication Service, Inc. | 554.40 |
| 92-CC-2383 | Hinckley & Schmitt | 1,190.73 |
| 92-CC-2385 | P & W Supply | 119.30 |
| 92-CC-2397 | Meyers, Michael J. | 400.30 |
| 92-CC-2398 | Elm City Rehabilitation Center, Inc. | 223.50 |
| 92-CC-2400 | Central Baptist Children's Home | 15,118.51 |
| 92-CC-2405 | Cook County Adult Probation | 1,880.94 |
| 92-CC-2407 | Chicago, City of | 24,563.15 |
| 92-CC-2408 | Ram Industries | 90.90 |
| 92-CC-2409 | Public Safety Equipment, Inc. | 2,420.00 |
| 92-CC-2417 | Commerce Clearing House, Inc. | 177.04 |
| 92-CC-2420 | K-Mart #4227 | 111.87 |
| 92-CC-2421 | Swiderski Electronics, Inc. | 1,426.00 |
| 92-CC-2422 | Sears, Roebuck & Co. | 578.68 |
| 92-CC-2423 | Tri Star Marketing, Inc. | 140.80 |
| 92-CC-2430 | St. Louis Safety, Inc. | 4,804.00 |
| 92-CC-2432 | Must Software International | 1,634.50 |
| 92-CC-2443 | McClendone, Doris M. | 200.00 |
| 92-CC-2446 | Zep Manufacturing Co. | 225.44 |
| 92-CC-2447 | Taylor Institute | 6,114.56 |
| 92-CC-2450 | Liberty Advertising Agency, Inc. | 943.60 |
| 92-cc-2451 | Liberty Advertising Agency, Inc. | 943.60 |
| 92-cc-2452 | Morton College | 2,006.83 |
| 92-cc-2456 | IBM Corp. | 756.00 |
| 92-CC-2457 | IBM Corp. | 1.151.00 |

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| 92-CC-2458 | Mt. Sinai Hospitd | 334.00 |
| 92-CC-2459 | Mt. Sinai Hospitd | 209.00 |
| 92-CC-2460 | Mt. Sinai Hospital | 159.00 |
| 92-CC-2461 | Mt. Sinai Hospitd | 84.00 |
| 92-CC-2462 | Mt. Sinai Hospital | 109.00 |
| 92-CC-2463 | Mt. Sinai Hospitd | 284.00 |
| 92-CC-2464 | Mt. Sinai Hospitd | 184.00 |
| 92-CC-2465 | Mt. Sinai Hospital | 284.00 |
| 92-CC-2466 | Mt. Sinai Hospital | 659.00 |
| 92-CC-2467 | Mt. Sinai Hospitd | 584.00 |
| 92-CC-2468 | Mt. Sinai Hospitd | 134.00 |
| 92-CC-2469 | Mt. Sinai Hospital | 309.00 |
| 92-CC-2470 | Mt. Sinai Hospitd | 534.00 |
| 92-CC-2471 | Mt. Sinai Hospitd | 259.00 |
| 92-CC-2472 | Mt. Sinai Hospitd | 409.00 |
| 92-CC-2473 | Mt. Sinai Hospitd | 109.00 |
| 92-CC-2474 | Mt. Sinai Hospital | 409.00 |
| 92-CC-2475 | Mt. Sinai Hospitd | 434.00 |
| 92-CC-2476 | Mt. Sinai Hospitd | 109.00 |
| 92-CC-2477 | Mt. Sinai Hospitd | 184.00 |
| 92-CC-2478 | Mt. Sinai Hospitd | 259.00 |
| 92-CC-2479 | Mt. Sinai Hospitd | 434.00 |
| 92-CC-2480 | Mt. Sinai Hospitd | 84.00 |
| 92-CC-2481 | Mt. Sinai Hospitd | 109.00 |
| 92-CC-2482 | Mt. Sinai Hospital | 284.00 |
| 92-CC-2485 | Kemmerer Village | 296.01 |
| 92-CC-2487 | BP Oil Co. | 11.96 |
| 92-CC-2496 | Dickey Temporaries | 454.25 |
| 92-CC-2498 | Dudley, Ruthie | 250.00 |
| 92-CC-2512 | Community College Dist. #508, Board of Trustees **of** | 120.00 |
| 92-CC-2515 | Voss, Terri | 250.00 |
| 92-CC-2516 | Community Contracts, Inc. | 5,991.14 |
| 92-CC-2521 | **USDA-NFC** | 50.60 |
| 92-CC-2522 | Westminster Infant Care Center | 758.48 |
| 92-CC-2524 | Scharringhausen Pharmacy, Inc. | 562.04 |
| 92-CC-2531 | Holiday Inn | 43.60 |
| 92-CC-2532 | Supan, Terry, CPO | 75.00 |
| 92-CC-2534 | Marathon Oil Co. | 18.34 |
| 92-CC-2535 | Marathon Oil Co. | 12.82 |
| 92-CC-2537 | Marathon Oil Co. | 32.50 |

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| 92-CC-2539 | Marathon Oil Co. | 15.23 |
| 92-CC-2540 | Marathon Oil Co. | 11.32 |
| 92-CC-2543 | Marathon Oil Co. | 14.03 |
| 92-CC-2546 | Marathon Oil Co. | 98.80 |
| 92-CC-2547 | Marathon Oil Co. | 30.51 |
| 92-CC-2548 | Marathon Oil Co. | 8.70 |
| 92-CC-2550 | Marathon Oil Co. | 64.12 |
| 92-CC-2552 | Marathon Oil Co. | 10.44 |
| 92-CC-2553 | Marathon Oil Co. | 6.00 |
| 92-CC-2555 | Marathon Oil Co. | 12.55 |
| 92-CC-2557 | Marathon Oil Co. | 12.17 |
| 92-CC-2560 | Marathon Oil Co. | 62.23 |
| 92-CC-2564 | Marathon Oil Co. | 19.55 |
| 92-CC-2565 | Marathon Oil Co. | 10.34 |
| 92-CC-2574 | Doctors Hospital | 45.00 |
| 92-CC-2578 | La Salle Messenger Paper | 680.56 |
| 92-CC-2579 | La Salle Messenger Paper | 12.76 |
| 92-CC-2580 | La Salle Messenger Paper | 327.52 |
| 92-CC-2582 | La Salle Messenger Paper | 2,192.94 |
| **92-CC-2583** | Lietzau, **John R.** | 400.00 |
| 92-CC-2584 | On Broadway | 59.25 |
| 92-CC-2585 | On Broadway | 6.25 |
| 92-CC-2587 | Sbordone, Sharon | 503.04 |
| 92-CC-2595 | Family Junction | 900.00 |
| 92-CC-2603 | Wonais, C. J., M.D., P.C. | 90.00 |
| 92-CC-2604 | Wonais, C. J., M.D., P.C. | 90.00 |
| 92-CC-2606 | Spinner Plastics, Inc. | 128.40 |
| 92-CC-2608 | Spinner Plastics, Inc. | 60.04 |
| 92-CC-2617 | Community Mental Health Council, Inc. | 9,716.85 |
| 92-CC-2618 | V & J Day Care Center | 1,312.96 |
| 92-CC-2619 | Computerland | 3,476.62 |
| 92-CC-2620 | Lewis, Loren P. | 140.00 |
| 92-CC-2627 | Amoco Oil Co. | 109.18 |
| 92-CC-2628 | Amoco Oil Co. | 158.43 |
| 92-CC-2629 | Amoco Oil Co. | 74.50 |
| 92-CC-2630 | Amoco Oil Co. | 26.00 |
| 92-CC-2633 | Amoco Oil Co. | 51.02 |
| 92-CC-2634 | Amoco Oil Co. | 121.11 |
| 92-CC-2636 | Amoco Oil Co. | 52.45 |
| 92-CC-2638 | Amoco Oil Co. | 279.72 |
| 92-CC-2654 | Aladdin Synergetics, Inc. | 7,250.00 |

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| 92-CC-2655 | Cats Co. | 735.00 |
| 92-CC-2656 | Cooper, Talbot | 35.00 |
| 92-CC-2657 | Cooper, Talbot | 80.28 |
| 92-CC-2660 | Bull HN Information Systems | 1,180.94 |
| 92-CC-2666 | Gruener Office Supplies, Inc. | 63.00 |
| 92-CC-2667 | Smithkline Beecham Clinical Laboratories | 13.25 |
| 92-CC-2668 | Carnahan, Michael D. | 75.00 |
| 92-CC-2669 | Kovar, Brittain, Sledz & Morris | 4,366.00 |
| 92-CC-2670 | Kovar, Brittain, Sledz & Morris | 649.15 |
| 92-CC-2678 | Jones, Verna R. | 1,206.04 |
| 92-CC-2681 | McKeever Communications, Inc. | 82.50 |
| 92-CC-2682 | Inn at University Village, The | 470.40 |
| 92-CC-2683 | Spinner Plastics, Inc. | 50.39 |
| 92-CC-2685 | McMahon, Thomas L. | 1,000.00 |
| 92-CC-2689 | Visiting Nurse Assn. **of Fox** Valley | 510.00 |
| 92-CC-2690 | Urbana & Champaign Sanitary Dist. | ***63.45*** |
| 92-CC-2694 | Globe Glass & Mirror | 415.29 |
| 92-CC-2697 | Globe Glass & Mirror | 214.36 |
| 92-CC-2698 | Globe Glass & Mirror | 358.36 |
| 92-CC-2699 | Globe Glass & Mirror | 84.25 |
| 92-CC-2700 | Globe Glass & Mirror | 50.18 |
| 92-CC-2701 | Globe Glass & Mirror | 154.29 |
| 92-CC-2702 | Globe Glass & Mirror | 204.31 |
| 92-CC-2703 | Globe Glass & Mirror | 251.10 |
| 92-CC-2704 | Martinucci, August, M.D. | 115.00 |
| 92-CC-2709 | Hi-Vu, Inc. | 13,671.00 |
| 92-CC-2710 | Hi-Vu, Inc. | 17,825.00 |
| 92-CC-2711 | Carmen, Ed S. Del, M.D., P.C. | 75.00 |
| 92-CC-2712 | Ushman Communications Co., Inc. | 657.36 |
| 92-CC-2713 | Bell & Howell | 1,263.80 |
| 92-CC-2724 | Unocal | 64.46 |
| 92-CC-2728 | Gould Publications | 980.15 |
| 92-CC-2730 | Xerox Corp. | 113.11 |
| 92-CC-2732 | **Azara,** Ertihab | 1,000.00 |
| 92-CC-2733 | Lakewood Bowl | 369.70 |
| 92-CC-2742 | Mohan, Kaz | 36.96 |
| 92-CC-2743 | Wiley Office Equipment Co. | 450.00 |
| 92-CC-2744 | National Council of State Boards of Nursing, Inc. | 810.00 |
| 92-CC-2745 | Illinois Bell Telephone Co. | 35,532.25 |
| 92-CC-2746 | Illinois Bell Telephone Co. | 219.58 |
| 92-CC-2747 | Illinois Bell Telephone Co. | 246.38 |

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| 92-CC-2748 | Illinois Bell Telephone Co. | 594.35 |
| 92-CC-2750 | Family Service Agency | 113.00 |
| 92-CC-2784 | Steckel-Parker Architects, Inc. | 1,285.00 |
| 92-CC-2795 | Kelly, Martin J., Jr. | 240.39 |
| 92-CC-2796 | Egwele, Richard N. | 135.00 |
| 92-CC-2797 | Egwele, Richard, M.D. | 375.00 |
| 92-CC-2799 | Help At Home, Inc. | 66.00 |
| 92-CC-2800 | Help At Home, Inc. | 81.00 |
| 92-CC-2802 | Illinois Telephone Service Co. | 20,928.00 |
| 92-CC-2812 | Andreotti, Anna | 25.00 |
| 92-CC-2813 | Ramey, Sherry Lynn | 350.00 |
| 92-CC-2814 | Morris, Robert, College | 97,441.00 |
| 92-CC-2815 | Motorola, Inc. | 368.60 |
| 92-CC-2816 | Motorola, Inc. | 5,627.40 |
| 92-CC-2818 | Peoria Urological Associates | 30.00 |
| 92-CC-2819 | Ram Industries, Inc. | 181.40 |
| 92-CC-2820 | Pitney Bowes | 130.00 |
| 92-CC-2824 | Vitalis, Patricia | 51.38 |
| 92-CC-2825 | Starved Rock Lodge & Conference Ctr | 3,681.68 |
| **92-CC-2828** | CDS Office Systems, Inc. | 616.72 |
| 92-CC-2840 | Access Energy Corp. | 686.06 |
| 92-CC-2849 | Shell Oil Co. | 277.01 |
| 92-CC-2850 | Daniels, James | 150.81 |
| 92-CC-2856 | Arrow Chevrolet, Inc. | 316.22 |
| 92-CC-2857 | Access Energy Corp. | 527.87 |
| 92-CC-2861 | Easter Seal Rehabilitation Center of Will/Grundy County, Inc. | 70.00 |
| 92-CC-2863 | Bioandytical Systems, Inc. | 272.35 |
| 92-CC-2865 | Amoco Oil Co. | 98.94 |
| 92-CC-2867 | Brooks, Barbara | 39.76 |
| 92-CC-2868 | Brooks, Barbara | 95.68 |
| 92-CC-2869 | Brooks, Barbara | 66.96 |
| 92-CC-2870 | Brooks, Barbara | 113.62 |
| 92-CC-2871 | Brooks, Barbara | 209.52 |
| 92-CC-2872 | Brooks, Barbara | 198.48 |
| 92-CC-2884 | Elgin Community College | 339.00 |
| 92-CC-2885 | South Central Medical Building Co. | 43,305.53 |
| 92-CC-2886 | Lar Mar Co. d/b/a Bernie Herms | 125.00 |
| 92-CC-2887 | Lar Mar Co. d/b/a Bernie Herms | 161.47 |
| 92-CC-2888 | Lar Mar Co. d/b/a Bernie Herms | 100.00 |
| 92-CC-2889 | Lar Mar Co. d/b/a Bernie Herms | 125.00 |

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| 92-CC-2890 | Mitchell, Noel | 69.60 |
| 92-CC-2892 | Memorial Medical Center | 292.74 |
| 92-CC-2893 | Illinois State University | 450.00 |
| 92-CC-2896 | Oluwole, Joann R. | 194.90 |
| 92-CC-2898 | Healthcare Textile Management Systems, Inc. | 2,655.24 |
| 92-CC-2900 | Lutheran Social Services of Illinois | 220.41 |
| 92-CC-2904 | Lutheran Social Services of Illinois | 240.00 |
| 92-CC-2907 | Lutheran Social Services of Illinois | 983.98 |
| 92-CC-2908 | Board of Governors of State Colleges & Universities | 43.90 |
| 92-CC-2910 | Board of Governors of State Colleges & Universities | 41.95 |
| 92-CC-2912 | Board of Governors of State Colleges & Universities | 41.95 |
| 92-CC-2913 | Board of Governors of State Colleges & Universities | 41.95 |
| 92-CC-2914 | Salem Flora Radiology, S.C. | 122.00 |
| 92-CC-2917 | Lutheran Social Services of Illinois | 1,653.08 |
| 92-CC-2919 | Lutheran Social Services of Illinois | 1,592.16 |
| 92-CC-2922 | Hinckley & Schmitt | 53.75 |
| 92-CC-2923 | South Suburban Special Recreation Assoc. | 87.65 |
| 92-CC-2924 | Springfield Clinic | 90.00 |
| 92-CC-2925 | Springfield Clinic | 512.00 |
| 92-CC-2926 | Charnond, Sarnit, M.D. | 77.74 |
| 92-CC-2927 | Charnond, Sarnit, M.D. | 246.65 |
| 92-CC-2928 | Charnond, Sarnit, M.D. | 133.23 |
| 92-CC-2929 | Charnond, Sarnit, M.D. | 390.00 |
| 92-CC-2930 | Charnond, Sarnit, M.D. | 260.00 |
| 92-CC-2931 | Charnond, Samit, M.D. | 100.00 |
| 92-CC-2932 | Charnond, Sarnit, M.D. | 980.00 |
| 92-CC-2933 | Charnond, Sarnit, M.D. | 84.66 |
| 92-CC-2934 | Charnond, Sarnit, M.D. | 145.00 |
| 92-CC-2935 | Amoco Oil | 49.18 |
| 92-CC-2942 | Sharma, B. D., M.D. | 675.00 |
| 92-CC-2944 | Professional Nurses Bureau | 474.60 |
| 92-CC-2945 | Professional Nurses Bureau | 284.76 |
| 92-CC-2946 | Professional Nurses Bureau | 126.56 |
| 92-CC-2947 | Professional Nurses Bureau | 379.68 |
| 92-CC-2948 | D.E.M. Enterprises, Inc. | 282.47 |
| 92-CC-2952 | City Water, Light & Power | 101.54 |
| 92-CC-2953 | Micro Focus, Inc. | 7,780.00 |

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| 92-CC-2954 | Regional Fleet Services | 42.57 |
| 92-CC-2960 | Unocal | 21.45 |
| 92-CC-2961 | Unocal | 9.55 |
| 92-CC-2963 | Unocal | 8.56 |
| 92-CC-2965 | R & D Electric Supply, Inc. | 8,990.19 |
| 92-CC-2967 | Nursefinders | 800.00 |
| 92-CC-2968 | Nursefinders | 1,194.20 |
| 92-CC-2969 | Nursefinders | 1,042.50 |
| 92-CC-2970 | Nursefinders | 1,329.00 |
| 92-CC-2972 | Moushon, Janet | 178.04 |
| 92-CC-2978 | Northeastern Illinois University | 865.00 |
| 92-CC-2979 | Northeastern Illinois University | 982.25 |
| 92-CC-2980 | Northeastern Illinois University | 2,801.00 |
| 92-CC-2981 | Northeastern Illinois University | 1,095.75 |
| 92-CC-2982 | Wann, Thomas C. | 1,660.08 |
| 92-CC-2986 | Whelan, Jano | 94.52 |
| 92-CC-2987 | Dept. of Professional Regulation Official Advance Funds—GE | 15.53 |
| 92-CC-2988 | Dept. of Professional Regulation Official Advance Funds—GE | 12.10 |
| 92-CC-3004 | Cox, Iola | 628.56 |
| 92-CC-3010 | Tri-County Emergency Physicians, Ltd. | 70.00 |
| 92-CC-3011 | Chicago Board of Education | 2,401.25 |
| 92-CC-3015 | Illinois Hospital, University of | 219.80 |
| 92-CC-3016 | Illinois Hospital, University of | 121.00 |
| 92-CC-3017 | Illinois Hospital, University of | 1,669.00 |
| 92-CC-3018 | Nelson, Karen M. | 25.80 |
| 92-CC-3023 | Colloton, Lavonne A. | 25.80 |
| 92-CC-3024 | Prentice Hall Computer Publishing | 7.96 |
| 92-CC-3025 | US Auto Glass Centers | 200.00 |
| 92-CC-3026 | US Auto Glass Centers | 204.84 |
| 92-CC-3027 | US Auto Glass Centers | 199.62 |
| 92-CC-3028 | US Auto Glass Centers | 344.61 |
| 92-CC-3032 | US Auto Glass Centers | 176.97 |
| 92-CC-3033 | US Auto Glass Centers | 148.76 |
| 92-CC-3034 | US Auto Glass Centers | 79.49 |
| 92-CC-3035 | US Auto Glass Centers | 131.59 |
| 92-CC-3036 | US Auto Glass Centers | 223.80 |
| 92-CC-3038 | CDS Office Systems, Inc. | 74.26 |
| 92-CC-3039 | CDS Office Systems, Inc. | 924.00 |
| 92-CC-3040 | CDS Office Systems, Inc. | 254.00 |

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| 92-CC-3041 | CDS Office Systems, Inc. | 120.00 |
| 92-CC-3043 | CDS Office Systems, Inc. | 474.50 |
| 92-CC-3047 | West Publishing Co. | 104.12 |
| 92-CC-3052 | Little City Foundation | 7,782.45 |
| 92-CC-3054 | O'Neill, Timothy P. | 750.00 |
| 92-CC-3055 | Reilly, Sheila | 6,600.00 |
| 92-CC-3063 | Aeroil Products Co. | 98.46 |
| 92-CC-3070 | Continental Courier, Ltd. | 430.60 |
| 92-CC-3071 | Khan, A. Khaleeq, M.D. | 480.00 |
| 92-CC-3074 | Home Health Plus, Inc. | 783.00 |
| 92-CC-3075 | Bull HN Information Systems | 3,238.90 |
| 92-CC-3081 | Lux, Paulette D. | 69.84 |
| 92-CC-3083 | Parkland College | 1,494.30 |
| 92-CC-3085 | Schlobohm, Cheryl Marie | 40.00 |
| 92-CC-3086 | Westlake Community Hospital | 1,975.00 |
| 92-CC-3099 | Illinois Hospital, University of | 1,742.74 |
| 92-CC-3105 | Davis, George R. | 340.00 |
| 92-CC-3106 | Davis, George R. | 72.90 |
| 92-CC-3107 | Lee, Boon Yiu | 95.00 |
| 92-CC-3108 | Stricker Trust #1 | 425.00 |
| 92-CC-3109 | Liquid Carbonic Corp. | 1,447.50 |
| 92-CC-3110 | Lake County Health Dept.-Mental Health Division | 7,377.27 |
| 92-CC-3116 | Computing Technologies for Aviation | 3,381.07 |
| 92-CC-3121 | Association for Retarded Citizens | 617.25 |
| 92-CC-3123 | Shepard's/McGraw-Hill, Inc. | 330.60 |
| 92-CC-3127 | Association House of Chicago | 941.40 |
| 92-CC-3133 | Reliable Numbering Machine Repair | 427.72 |
| 92-CC-3136 | Roger's Service | 227.00 |
| 92-CC-3138 | Calumet Youth & Family Services | 1,822.14 |
| 92-CC-3139 | Baublitz, Mary G. | 658.25 |
| 92-CC-3152 | Computerland | 20,161.44 |
| 92-CC-3154 | Value City | 277.71 |
| 92-CC-3159 | Fraser Stamp & Sed Co. | 25.88 |
| 92-CC-3160 | Arrow Equipment Co. | 1,484.27 |
| 92-CC-3161 | Peary, Marjorie E. | 108.40 |
| 92-CC-3162 | Peary, Marjorie E. | 104.00 |
| 92-CC-3163 | Peary, Marjorie E. | 100.00 |
| 92-CC-3164 | Chicago Board of Education | 20,000.00 |
| 92-CC-3168 | Purdue University | 55.89 |
| 92-CC-3177 | Silverdale on the Bay | 494.68 |

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| 92-CC-3178 | Inendino, Ann | 85.00 |
| 92-CC-3195 | Pryor, Lavern | 102.63 |
| 92-CC-3197 | Fisher Scientific | 93.03 |
| 92-CC-3210 | ASI Personnel Service, Inc. | 1,019.24 |
| 92-CC-3212 | ASI Personnel Service, Inc. | 795.72 |
| 92-CC-3213 | ASI Personnel Service, Inc. | 66.75 |
| 92-CC-3214 | ASI Personnel Service, Inc. | 578.56 |
| 92-cc-3215 | Illinois Institute of Technology | 102,13500 |
| 92-CC-3216 | Illinois Institute of Technology | 137,326.00 |
| 92-CC-3217 | Xerox Corp.-MSE I | 150.35 |
| 92-CC-3218 | Simware, Inc. | 4,620.00 |
| 92-CC-3220 | Leggins, Eva J. | 26.64 |
| 92-CC-3225 | Badger Farms, Inc. d/b/a Badger Murphy Food Service | 518.40 |
| 92-CC-3229 | ASI Personnel Service, Inc. | 2,914.61 |
| 92-CC-3230 | ASI Personnel Service, Inc. | 667.02 |
| 92-CC-3231 | McKeever Communications, Inc. | 25.00 |
| 92-CC-3235 | Sullivan Chevrolet | 73.71 |
| 92-CC-3239 | Douglas, Kristina L. | 500.00 |
| 92-CC-3240 | Pan Am Weather Systems | 109.20 |
| 92-CC-3244 | Grant, Phyllis D. | 303.00 |
| 92-CC-3246 | Mr. Auto Glass, Inc. | 333.75 |
| 92-CC-3249 | Superior Reporting Service | 3,384.80 |
| 92-CC-3250 | Superior Reporting Service | 55.00 |
| 92-CC-3253 | Garrett General Aviation Services | 2,306.54 |
| 92-CC-3259 | Manis, Leslie A. | 500.00 |
| 92-CC-3267 | Lutheran Social Services of Illinois | 54.86 |
| 92-CC-3268 | Lutheran Social Services of Illinois | 350.00 |
| 92-CC-3269 | Lutheran Social Services of Illinois | 1,200.00 |
| 92-CC-3300 | C.M.D.S., Inc. | 404.37 |
| 92-CC-3304 | Tellerman, Judith S., Ph.D. | 5,783.17 |
| 92-CC-3305 | HPI International, Inc. | 50.86 |
| 92-CC-3309 | Humana Hospital-Michael Reese | 11,462.29 |
| 92-CC-3311 | Altschuler, Melvoin, & Glasser | 557.40 |
| 92-CC-3312 | American Data Voice Systems, Inc. | 765.00 |
| 92-CC-3313 | Ada S. McKinley Community Services, Inc. | 2,775.25 |
| 92-CC-3319 | Moriarty, John F. | 1,089.23 |
| 92-CC-3335 | Ada S. McKinley Community Services | 698.28 |
| 92-CC-3336 | Visiting Nurse Association North | 10,190.95 |
| 92-CC-3343 | Hinckley & Schmitt | 545.81 |
| 92-CC-3344 | Econo-Car | 118.41 |

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| 92-CC-3347 | Ace Coffee Bar Inc. | 7.00 |
| 92-CC-3349 | American Assn. of State Highway & Transportation Officials | 480.00 |
| 92-CC-3350 | Owens, Renay | 82.08 |
| 92-CC-3351 | Ochsner, Nicholas | 263.03 |
| 93-CC-0002 | Joliet Junior College | 739.50 |
| 93-CC-0013 | Jewish Children Bureau of Chicago | 197.48 |
| 93-CC-0021 | Sneed, Vivian M. | 205.50 |
| 93-CC-0024 | Harris, Deborah | 69.00 |
| 93-CC-0025 | Trulove Heating & Cooling | 178.00 |
| 93-CC-0033 | O'Brien, Dennis C. | 608.33 |
| 93-cc-0035 | Park Ridge Youth Campus | 1,817.04 |
| 93-CC-0038 | Community College Dist. #508, Board of Trustees of | 332.00 |
| 93-cc-0039 | Community College Dist. #508, Board of Trustees of | 98.00 |
| 93-CC-0040 | Community College Dist. #508, Board of Trustees of | 358.00 |
| 93-CC-0042 | Community College Dist. #508, Board of Trustees of | 176.00 |
| 93-CC-0043 | Community College Dist. #508, Board of Trustees of | 280.00 |
| 93-cc-0044 | Community College Dist. #508, Board of Trustees of | 244.00 |
| 93-CC-0045 | Community College Dist. #508, Board of Trustees of | 332.00 |
| 93-CC-0046 | Community College Dist. #508, Board of Trustees of | 257.00 |
| 93-cc-0047 | Community College Dist. #508, Board of Trustees of | 192.00 |
| 93-CC-0048 | Community College Dist. #508, Board of Trustees of | 436.00 |
| 93-cc-0049 | Community College Dist. #508, Board of Trustees of | 254.00 |
| 93-CC-0055 | U.S. Society of **Wang** Users | 525.00 |
| 93-CC-0056 | Banks Service Co. | 505.26 |
| 93-CC-0061 | Ivy Radiology | 60.00 |
| 93-CC-0062 | Roosevelt University | 1,750.00 |
| 93-cc-0063 | Commonwealth **Edison** Co. | 230.48 |
| 93-cc-0064 | Thresholds | 12,543.00 |
| 93-cc-0065 | US Auto Glass Centers | 176.97 |

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| 93-CC-0069 | US Auto Glass Centers | 202.22 |
| 93-cc-0074 | US Auto Glass Centers | 322.59 |
| 93-cc-0075 | US Auto Glass Centers | 49.63 |
| 93-CC-0076 | US Auto Glass Centers | 298.76 |
| 93-CC-0082 | Accurate Reporting Co., Inc. | 69.00 |
| 93-CC-0092 | Rush-Presbyterian-St. Luke's Health Plans, Inc. | 450.00 |
| 93-CC-0104 | Walker Sales, Inc. | 105.72 |
| 93-CC-0109 | Northwest Community Hospital | 15,729.90 |
| 93-CC-0110 | Wright, Jerry | 608.40 |
| 93-CC-0113 | Doehren, Jno V., Co. | 182.64 |
| 93-CC-0115 | Canada, Brenda | 100.00 |
| 93-CC-0116 | Bocker Chevrolet Co. | 19.03 |
| 93-CC-0131 | Loyola Medical Practice Plan | 275.00 |
| 93-CC-0132 | Loyola Medical Practice Plan | 40.00 |
| 93-CC-0133 | Loyola Medical Practice Plan | 447.00 |
| 93-CC-0134 | Loyola Medical Practice Plan | 343.00 |
| 93-CC-0135 | Loyola Medical Practice Plan | 32.00 |
| 93-CC-0136 | Loyola Medical Practice Plan | 1,100.83 |
| 93-CC-0137 | Loyola Medical Practice Plan | 270.00 |
| 93-CC-0138 | Loyola Medical Practice Plan | 2,309.00 |
| 93-CC-0139 | Loyola Medical Practice Plan | 272.00 |
| 93-CC-0140 | Loyola Medical Practice Plan | 1,803.00 |
| 93-CC-0141 | Loyola Medical Practice Plan | 870.00 |
| 93-CC-0142 | Loyola Medical Practice Plan | 532.00 |
| 93-CC-0143 | Loyola Medical Practice Plan | 204.00 |
| 93-CC-0144 | Loyola Medical Practice Plan | 972.00 |
| 93-CC-0145 | Johnson, Carmella | 453.96 |
| 93-CC-0153 | Loyola Medical Practice Plan | 1,016.36 |
| 93-CC-0154 | Constable Police Supply | 117.00 |
| 93-CC-0155 | Catholic Charities-Diocese of Rockford | 427.32 |
| 93-CC-0156 | White, Gussie Lee | 225.00 |
| 93-CC-0172 | Wilson, Stephen E. | 182.98 |
| 93-CC-0188 | Little City Foundation | 7,340.15 |
| 93-CC-0189 | Little City Foundation | 12,468.07 |
| 93-CC-0190 | Little City Foundation | 6,031.26 |
| 93-CC-0191 | Little City Foundation | 3,877.95 |
| 93-CC-0193 | Barr, Willie J. | 500.00 |
| 93-CC-0194 | Barr, Willie J. | 500.00 |
| 93-CC-0203 | Illinois Bell Telephone Co. | 21,432.00 |
| 93-CC-0204 | Illinois Bell Telephone Co. | 21,088.50 |
| 93-CC-0205 | Illinois Bell Telephone Co. | 402.00 |

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| 93-CC-0206 | Illinois Bell Telephone Co. | 22,598.00 |
| 93-CC-0208 | Columbia College | 13,387.50 |
| 93-CC-0209 | Columbia College | 7,162.50 |
| 93-CC-0212 | Martinucci, August, M.D. | 579.00 |
| 93-CC-0215 | Kale Uniforms, Inc. | 97.11 |
| 93-CC-0216 | Trakas, Demetrius, Dr. | 75.00 |
| 93-CC-0231 | Johnson, Norma | **46.00** |
| 93-CC-0232 | Sprint Communications Co.; L.P. f/k/a US Sprint Communications Co., Ltd. Partnership | 229,655.00 |
| 93-CC-0234 | Graham, Luanne | 100.00 |
| 93-CC-0248 | Lendi, Louis **R.** | 1,750.00 |
| 93-CC-0250 | Lawrence Hall Youth Services | 1,345.00 |
| 93-CC-0265 | Factory Bedding | 260.00 |
| 93-CC-0266 | Factory Bedding | 280.00 |
| 93-CC-0285 | Zenith Data Systems | 669.00 |
| 93-CC-0286 | Lutheran Social Services of Illinois | 3,146.81 |
| 93-CC-0310 | Globe Glass & Mirror Co. | 255.70 |
| 93-CC-0311 | Globe Glass & Mirror Co. | 509.99 |
| 93-CC-0312 | Kimberly Quality Care d/b/a UHH Home Services Corp. | 1,226.12 |
| 93-CC-0313 | Dorman, Suzanne c/o Illinois Institute of Technology | 1,750.00 |
| 93-CC-0314 | Kimberly Quality Care d/b/a/ UHH Home Services Corp. | 878.02 |
| 93-CC-0315 | Kimberly Quality Care d/b/a UHH Home Services Corp. | 237.30 |
| 93-CC-0320 | North Aurora Motel, Inc. d/b/a Travelodge Hotel | 230.17 |
| 93-CC-0325 | Prendergast, Richard J., Ltd. | 1,147.50 |
| 93-CC-0326 | AT&T Communications | 202.52 |
| 93-CC-0327 | AT&T Communications | 1,013.14 |
| 93-CC-0328 | AT&T Communications | 532.09 |
| 93-CC-0329 | AT&T Communications | 1,318.37 |
| 93-CC-0330 | AT&T Communications | 619.52 |
| 93-CC-0331 | AT&T Communications | 506.30 |
| 93-CC-0332 | AT&T Communications | 532.09 |
| 93-CC-0337 | Casa Central | 1,800.00 |
| 93-CC-0338 | Antia, Kersey H., Ph.D. | 1,050.00 |
| 93-CC-0340 | Illinois Institute of Technology | 1,750.00 |
| 93-CC-0341 | O'Shea, Luanne S. | 328.00 |

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| 93-CC-0351 | Sims, Sherry | 414.28 |
| 93-CC-0356 | Swedish American Hospital HHM Services | 138.00 |
| 93-CC-0376 | Hromek, Diane | 557.00 |
| 93-CC-0377 | Hromek, Diane | 76.50 |
| 93-CC-0404 | Great Lakes Psychological Service:; | 11,692.50 |
| 93-CC-0407 | US Auto Glass Centers | 57.35 |
| 93-CC-0428 | Stahelin, Leland | 850.00 |
| 93-CC-0454 | Hinckley & Schmitt | 54.35 |
| 93-CC-0455 | Lincoln Square Partnership | 804.14 |
| 93-CC-0460 | Bocker Chevrolet | 35.23 |
| 93-CC-0470 | Kohlman-Hill, Inc. | 2,021.00 |
| 93-CC-0471 | Erikson Institute | 2,800.00 |
| 93-CC-0495 | Computype Computer Services | 995.00 |
| 93-CC-0505 | Narko, Medard M., & Assoc. | 350.00 |
| 93-CC-0508 | Rockford Clinic, Ltd. | 1,228.28 |
| 93-CC-0524 | Carter Reporting Service | 108.30 |
| 93-CC-0534 | J & S Contracting, Inc. | 15,900.00 |
| 93-CC-0544 | OCE-Office Systems, Inc. | 324.08 |
| 93-CC-0546 | Teasley, Colette | 250.00 |
| 93-CC-0564 | Warfield, Catherine R. | 500.00 |
| 93-CC-0576 | Jarosh, Patricia M. | 129.35 |
| 93-CC-0578 | Leighty, Alice | 500.00 |
| 93-CC-0587 | Ward, Gertrude | 91.65 |
| 93-CC-0588 | DePaul University | 28,349.82 |
| 93-CC-0597 | Menig, Terry | 2,200.90 |
| 93-CC-0599 | Kang, Ben W. | 1,000.00 |
| 93-CC-0602 | Morgan, Karen E. | 1,000.00 |
| 93-CC-0603 | Knox, Georgia | 1,280.00 |
| 93-CC-0609 | Sidley & Austin | 638.00 |
| 93-CC-0612 | Steurer, Roger | 5,978.65 |
| 93-CC-0617 | Tran, Ho Luong, M.D. | 437.21 |
| 93-CC-0620 | Bell, Martha, & Assoc. | 18,650.84 |
| 93-CC-0621 | Columbia Pipe & Supply Co. | 330.00 |
| 93-CC-0625 | Catholic Charities of Chicago | 450.00 |
| 93-CC-0626 | Sidley & Austin | 739.00 |
| 93-CC-0629 | Burke, Marilyn P. | 250.00 |
| 93-CC-0631 | Medcentre Laboratories | 64.00 |
| 93-CC-0632 | Division of Human Services, Dept. of Human Resources Dupage County | 16,439.11 |
| 93-CC-0636 | Johnson, Regina | 912.96 |
| 93-CC-0640 | Egizii Electric, Inc. | 3,334.57 |

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| 93-CC-0646 | Dean Foods Co. | 3,176.28 |
| 93-CC-0653 | Marsalek, Diann K. | 164.50 |
| 93-CC-0655 | M & M Co. | 560.00 |
| 93-CC-0657 | Oak Park Township | 10.84 |
| 93-CC-0659 | Instrument Sales Corp. | 126.00 |
| 93-CC-0666 | Temme Spring Clutch & Brake | 568.12 |
| 93-CC-0672 | McCadd, Victor | 753.55 |
| 93-CC-0674 | Barclay, Eugenia R. | 403.70 |
| 93-CC-0677 | Majewski, Kathy | 1,446.50 |
| 93-CC-0689 | Mid-Land Supply Co. | 309.75 |
| 93-CC-0702 | **Haas,** Timothy P., D.D.S. | 90.00 |
| 93-CC-0711 | Arellano, Kim V. | 1,000.00 |
| 93-CC-0724 | Giegerich, Clare R., M.D. | 20.00 |
| 93-CC-0725 | Large, J. B., & Sons | 2,585.00 |
| 93-CC-0750 | Kelly Temporary Services | 292.22 |
| 93-CC-0754 | Specialty Construction of Illinois, Inc. | 2,720.00 |
| 93-CC-0755 | Specialty Construction of Illinois, Inc. | 700.00 |
| 93-CC-0757 | Fox Valley Fire Protection | 138.80 |
| 93-CC-0758 | Patuszynski, Mark C. | 500.00 |
| 93-CC-0759 | Johnson, Diane Lemanski | 135.70 |
| 93-CC-0767 | Illiana Fence & Sales Corp. | 9,286.44 |
| 93-CC-0770 | Dvorak, Maryann T. | 78.12 |
| 93-CC-0785 | Habilitative Systems, Inc. | 2,328.75 |
| 93-CC-0786 | Mirza, Kauser A. | 388.25 |
| 93-CC-0787 | Fredriksen & **Sons** Fire Equipment Co. | 106.50 |
| 93-CC-0789 | Vital Record Banc, Inc. | 1,364.86 |
| 93-CC-0790 | Vital Record Banc, Inc. | 1,540.82 |
| 93-CC-0797 | Classic Construction Services | 4,800.00 |
| 93-CC-0832 | West Loop Auto Body | 305.08 |
| 93-CC-0835 | Reddy, V. Ramachandra, M.D. | 330.00 |
| 93-CC-0836 | McDonough Mechanical Services, Inc. | 96.50 |
| 93-CC-0839 | Alcerro, Luisa | 677.94 |
| 33-CC-0842 | Aratex Services, Inc. | 18.00 |
| 93-CC-0843 | Rainbo Bread Co. of Aurora | 448.80 |
| 93-CC-0845 | West b o p Auto | 238.35 |
| 93-CC-0846 | Atlas Lift Truck Rentals & Sales, Inc. | 318.75 |
| 93-CC-0856 | Alliance **for** the Mentally Ill of Oak Park & River Forest | 81.00 |
| 93-CC-0857 | Lincoln Square Partnership . | 95.21 |
| 93-CC-0872 | GTE Telecom Marketing Corp. | 5,215.00 |
| 93-CC-0873 | Association of Food & Drug Officials | 500.00 |

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| 93-CC-0877 | Sherrod, Gladys | 68.25 |
| 93-CC-0880 | Uhlich Children's Home | 1,260.00 |
| 93-CC-0884 | Catholic Charities, Diocese of Rockford | 733.20 |
| 93-CC-0885 | Ligma Corp. | 975.00 |
| 93-CC-0886 | Northern Illinois University | 675.00 |
| 93-cc-0899 | Miller, Susan W. | 2,350.00 |
| 93-CC-0913 | Midpack Corp. | 782.40 |
| 93-CC-0914 | Best Inns of America | 74.54 |
| 93-CC-0915 | Jeryco Chemical & Supply Co. | 1,159.40 |
| 93-CC-0922 | Uarco, Inc. | 3,476.25 |
| 93-CC-0927 | VMC, Inc. | 3,434.18 |
| 93-CC-0930 | Wilson, Michael J. | 1,152.00 |
| 93-cc-0935 | Huq, Zahurul, M.D. | 1,725.00 |
| 93-CC-0936 | Williams, Sharon L. | 427.35 |
| 93-CC-0937 | Urban Real Estate Research, Inc. | 15,000.00 |
| 93-CC-0941 | Illinois at Chicago, University of | 4,045.88 |
| 93-CC-0947 | Rogers, Viola | 174.00 |
| 93-CC-0948 | Rogers, Viola | 96.05 |
| 93-cc-0950 | Family Care Services | 2,504.44 |
| 93-CC-0951 | Family Care Services | 21,884.60 |
| 93-CC-0952 | Family Care Services | 1,360.32 |
| 93-CC-0953 | Family Care Services | 483.69 |
| 93-CC-0955 | Klaus, Biallowons | 1,120.00 |
| 93-CC-0961 | Marsh Management Consultants | 9,484.18 |
| 93-CC-0968 | Illinois Hospital, University of | 3,342.25 |
| 93-CC-0979 | Amoco Oil Co. | 44.19 |
| 93-CC-0981 | ESC 7 | 18,890.00 |
| 93-CC-0992 | Ashton, Louis J. | 38.75 |
| 93-CC-0993 | Thomas, Derrol R. | 320.00 |
| 93-CC-0996 | Midpack Corp. | 2,275.00 |
| 93-CC-0998 | Alternatives **for** the Older Adult | 82.56 |
| 93-CC-1014 | Sprint Communications Co. LP f/k/a US Sprint Communications Co.; Limited Partnership | 14,553.73 |
| 93-CC-1015 | Young, Robert **W.** | 1,000.00 |
| 93-CC-1022 | Simmons, Robert L. | 120.00 |
| 93-CC-1028 | Ivy Radiology | 13.00 |
| 93-CC-1029 | Oak Park Township | 82.56 |
| 93-CC-1032 | Xerox Corp. | 243.00 |
| 93-CC-1034 | Radiology Consultants of Rockford | 357.73 |
| 93-CC-1043 | Murphy Broom, Inc. | 173.27 |
| 93-CC-1048 | Reliable Numbering Machine Repair | 103.83 |

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|---|---|---|
| 93-CC-1049 | Garrity, Donald J. | 187.75 |
| 93-CC-1053 | Chicago Child Care Society | 10,277.42 |
| 93-CC-1054 | Airco Retail Operations | 73.50 |
| 93-CC-1062 | Neumann, Victor C., Assoc. | 5,020.40 |
| 93-CC-1063 | Illinois Institute of Technology | 875.00 |
| 93-CC-1064 | Illinois Institute of Technology | 875.00 |
| 93-CC-1065 | Illinois Institute of Technology | 3,500.00 |
| 93-CC-1071 | Wonais, C. J., M.D. | 84.00 |
| 93-CC-1072 | Industrial Power Controls, Inc. | 65.66 |
| 93-CC-1073 | National Association of Boards of Pharmacy | 23,779.00 |
| 93-CC-1076 | Dent, James | 60.00 |
| 93-CC-1077 | Dent, James | 82.50 |
| 93-CC-1079 | Edgewater Rehabilitation Assoc., Inc. | 100.00 |
| 93-CC-1088 | Surman, William **R.** | 150.00 |
| 93-CC-1089 | Commonwealth Edison | 4,204.93 |
| 93-CC-1090 | American Hedth Care Supply | 155.80 |
| 93-CC-1094 | Victory Memorid Hospital | 354.24 |
| 93-cc-1095 | Victory Memorial Hospital | 3,759.96 |
| 93-CC-1096 | Colbert, Consuela B. | 640.60 |
| 93-CC-1097 | Dent, James | 121.75 |
| 93-CC-1099 | Xerox Corp. | 9,308.08 |
| 93-cc-1110 | Community Counseling Center of the Fox Valley, Inc. | 4,074.00 |
| 93-CC-1111 | Opportunity House, Inc. | 70.99 |
| 93-CC-1112 | Chicago Cicero Medical Center, Inc. | 493.50 |
| 93-CC-1113 | Adnil Management Co. | 242.02 |
| 93-CC-1137 | Illinois at Chicago, University of | 4,999.99 |
| 93-CC-1138 | Accurate Reporting Co. | 445.00 |
| 93-CC-1143 | Chapin, Mildred L. | 292.50 |
| 93-CC-1145 | Suburban Adult Day Center, Inc. | 1,296.35 |
| 93-CC-1147 | Martin, Herb | 28.25 |
| 93-CC-1163 | Commonwealth Edison Co. | 62,636.57 |
| 93-CC-1164 | ASI Personnel Service, Inc. | 218.40 |
| 93-CC-1166 | Printing Equipment & Products, Inc. | 131.93 |
| 93-CC-1167 | Dee Supply Co. | 61.80 |
| 93-CC-1170 | Waste Management of the South Suburbs | 108.50 |
| 93-CC-1171 | Kennay, Doris J. d/b/a in Totidem Verbis | 99.25 |
| 93-CC-1173 | Kelly, Dennis G. | 1,098.59 |
| 93-CC-1174 | Vandenberg, Mark, Ambulance | 103.50 |
| 93-cc-1175 | Vandenberg, **Mark,** Ambulance | 97.50 |
| 93-CC-1176 | Vandenberg, Mark, Ambulance | 103.50 |

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| 93-CC-1177 | Vandenberg, Mark, Ambulance | 103.50 |
| 93-CC-1178 | Vandenberg, Mark, Ambulance | 202.50 |
| 93-CC-1179 | Vandenberg, Mark, Ambulance | 97.50 |
| 93-CC-1180 | Vandenberg, Mark, Ambulance | 172.50 |
| 93-CC-1182 | Door Tech | 395.49 |
| 93-CC-1183 | Stanton Equipment Co. | 2,404.58 |
| 93-CC-1184 | Columbia College | 15,250.00 |
| 93-CC-1193 | Tab Service Co. | 2,821.51 |
| 93-CC-1194 | Anspach, Kenneth | 614.35 |
| 93-CC-1197 | Community Mental Health Council, Inc. | 5,644.17 |
| 93-CC-1203 | Omni Youth Services | 2,560.58 |
| 93-CC-1204 | Jackson, Brenda | 137.00 |
| 93-CC-1209 | Jackson, Brenda | 142.75 |
| 93-CC-1210 | Jackson, Brenda | 50.75 |
| 93-CC-1218 | AGS Information Services, Inc. | 8,750.00 |
| 93-CC-1219 | Soderlund Brothers, Inc. | 1,172.84 |
| 93-CC-1220 | Food Expo | 50.00 |
| 93-CC-1222 | Miller, Jo Audrey | 70.50 |
| 93-CC-1224 | Eastman Kodak Co. | 1,072.00 |
| 93-CC-1236 | Fitzsimmons Surgical Supply, Inc. | 34.50 |
| 93-CC-1267 | Dennis, Leslie | 165.40 |
| 93-CC-1269 | Bekta Management | 3,120.00 |
| 93-CC-1271 | Kainz, Betty | 300.00 |
| 93-CC-1272 | Kainz, Betty | 252.00 |
| 93-CC-1273 | Sentry Drug, Inc. | 228.14 |
| 93-CC-1275 | Loyola Medical Practice Plan | 55.00 |
| 93-CC-1276 | Loyola Medical Practice Plan | 38.00 |
| 93-CC-1277 | Loyola Medical Practice Plan | 90.00 |
| 93-CC-1278 | Illinois at Chicago, University of | 65,813.14 |
| 93-CC-1284 | Bryson, Arthur L. | 101.75 |
| 93-CC-1285 | Canada, Victoria | 106.75 |
| 93-CC-1286 | Canada, Victoria | 144.50 |
| 93-CC-1287 | Canada, Victoria | 133.75 |
| 93-CC-1290 | Allied Tube & Conduit Corp. | 720.00 |
| 93-CC-1296 | Chicago Public Schools | 884.30 |
| 93-CC-1300 | Eastgate Investment Co. | 4,208.43 |
| 93-CC-1306 | Perkins, Yvonne | 197.50 |
| 93-CC-1313 | Uarco, Inc. | 23,717.92 |
| 93-CC-1320 | Carlton Healthcare/Carlton Associates | 115.90 |
| 93-CC-1321 | Stickney Township Office on Aging | 420.00 |
| 93-CC-1338 | Palmer-Thomas, Deborah | 645.00 |

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|---|---|---|
| 93-CC-1346 | Northern Illinois University | 6,217.41 |
| 93-CC-1347 | Perez, Virginia | 252.00 |
| 93-CC-1348 | Psychodiagnostics, Ltd. | 100.00 |
| 93-CC-1349 | Hwang, Christine | 113.04 |
| 93-CC-1355 | C.A.U.S.E.S. | 308.88 |
| 93-CC-1360 | Valdes, Naida J. | 54.70 |
| 93-CC-1361 | Buch, Piyush C., M.D. | 100.00 |
| 93-CC-1365 | Swedish American Hospital | 625.02 |
| 93-CC-1366 | Concrete Specialties, Inc. | 1,281.64 |
| 93-CC-1372 | Casa Central | 3,027.54 |
| 93-CC-1373 | Kankakee Community College | 2,744.90 |
| 93-CC-1392 | Mallon-Wenzel, Charlotte M. | 810.00 |
| 93-CC-1395 | Alcerro, Luisa | 202.00 |
| 93-CC-1398 | Rockford Surgical Services, S.C. | 255.07 |
| 93-CC-1402 | Children's Memorial Hospital, Div. of Cardiology #21 | 20.00 |
| 93-CC-1403 | Children's Memorial Hospital, Div. of Cardiology #21 | 20.00 |
| 93-CC-1404 | Children's Memorid Hospital, Div. of Cardiology #21 | 20.00 |
| 93-CC-1405 | Children's Memorial Hospital, Div. of Cardiology #21 | 20.00 |
| 93-CC-1406 | Children's Memorid Hospital, Div. of Cardiology #21 | 20.00 |
| 93-CC-1407 | Children's Memorial Hospital, Div. of Cardiology #21 | 20.00 |
| 93-CC-1408 | Children's Memorial Hospital, Div. of Cardiology #21 | 20.00 |
| 93-CC-1409 | Children's Memorial Hospital, Div. of Cardiology #21 | 20.00 |
| 93-CC-1415 | Korean American Senior Center | 248.50 |
| 93-CC-1416 | Recycled Office Furniture Systems, Inc. | 380.00 |
| 93-CC-1450 | Nexus Office Systems, Inc. | 4,008.00 |
| 93-CC-1452 | B & H Industries | 43.00 |
| 93-CC-1453 | Du Page County Dept. of Human Resources | 43.36 |
| 93-CC-1454 | Du Page County Dept. of Human Resources | 61.92 |
| 93-CC-1457 | Nuzzarello, Salvatore, M.D. | 768.00 |
| 93-CC-1458 | Westlake Community Hospital | 5,925.00 |
| 93-CC-1469 | Reo Movers & Van Lines | 425.00 |
| 93-CC-1477 | Taylor, Adrienne | 156.75 |
| 93-CC-1479 | Duke's Oil Service, Inc. | 40.00 |

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| 93-CC-1482 | Jesus People USA-FGM | 15,000.00 |
| 93-CC-1488 | Stewart, Brian W., & Associates, Inc. | 731.00 |
| 93-CC-1498 | Suddutli, Patrice | 44.25 |
| 93-CC-1518 | Valentine, John L. | 213.50 |
| 93-cc-1523 | Triton College | 880.25 |
| 93-cc-1525 | Triton College | 906.00 |
| 93-CC-1547 | Triton College | 880.25 |
| 93-cc-1549 | Siemens Nixdorf Information Systems, Inc. | 971.00 |
| 93-cc-1550 | Siemens Nixdorf Information Systems, Inc. | 1,600.00 |
| 93-CC-1551 | DePorter, Dennis A. | 475.50 |
| 93-cc-1559 | Georgios Comfort Inn | 318.00 |
| 93-CC-1561 | Martin Asphalt Paving & Maintenance Co. | 1,100.00 |
| 93-cc-1562 | Roosevelt University for Kecia Gaines | 1,597.00 |
| 93-CC-1571 | Moraine Valley Community College | 2,855.00 |
| 93-CC-1572 | Moraine Valley Community College | 810.00 |
| 93-CC-1576 | Chicago Cicero Medical Center, Inc. | 300.29 |
| 93-CC-1584 | Berry Bearing Co. | 363.05 |
| 93-CC-1605 | Adnil Management Co. | 7,016.46 |
| 93-CC-1606 | Chicago Cicero Medical Center, Inc. | 2,232.12 |
| 93-CC-1607 | Chicago Cicero Medical Center, Inc. | 300.29 |
| 93-CC-1611 | Eastman Kodak Co. | 327.02 |
| 93-CC-1613 | Lacocque, Patricia, M.S.W., L.C.S.W. | 100.00 |
| 93-CC-1616 | Rockford Molded Products, Inc. | 6,650.50 |
| 93-CC-1622 | Lutheran Social Services of Illinois | 3,330.50 |
| 93-CC-1656 | Lief, Thomas E. | 50.60 |
| 93-CC-1667 | McHenry County College | 1,086.69 |
| 93-CC-1668 | H & H Electric Co. | 3,500.00 |
| 93-CC-1677 | Continental Bank, N.A. | 250.00 |
| 93-CC-1681 | Chicago Hearing Society | 57.00 |
| 93-CC-1691 | Plummer, Andrew V. | 75.00 |
| 93-CC-1695 | Bayer Bess Vandenvarker | 1,440.50 |
| 93-CC-1703 | D & S Drug Store | 302.15 |
| 93-CC-1705 | Open Kitchens, Inc. | 13,403.35 |
| 93-CC-1719 | Northern Illinois University | 1,050.72 |
| 93-CC-1721 | Jenkins, Jeannine | 109.00 |
| 93-CC-1724 | United Airlines | 168.00 |
| 93-CC-1726 | Brownstein, Mary Ann | 270.00 |
| 93-CC-1733 | Rockford Memorial Hospital | 70.40 |
| 93-CC-1740 | Chicago, University of, La Rahida Research & Policy Center | 10,000.00 |
| 93-CC-1743 | 3M Co. | 5.094.50 |

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| 93-CC-1747 | Fox River Foods | 291.42 |
| 93-CC-1748 | Travel & Transport | 168.00 |
| 93-CC-1764 | Valukas, Anton R. | 453.00 |
| 93-CC-1769 | Ingalls Memorial Hospital | 3,449.95 |
| 93-CC-1770 | Ingalls Memorial Hospital | 6,322.40 |
| 93-CC-1771 | Ingalls Memorial Hospital | 4,561.00 |
| 93-CC-1780 | Lederman Trust, Sam & Lila | 5,458.73 |
| 93-CC-1797 | Rockford Memorial Hospital | 2,309.56 |
| 93-CC-1804 | McCorkle Court Reporters, Inc. | 90.60 |
| 93-CC-1822 | Thompson, William | 1,600.00 |
| 93-CC-1829 | James, Ltd. | 40.84 |
| 93-CC-1833 | Meyer Co., Wm. F. | 22.89 |
| 93-CC-1835 | South Shore Hospital Corp. | 27.00 |
| 93-CC-1844 | Jobs for Youth/Chicago | 9,570.30 |
| 93-CC-1847 | Esperanza Community Services | 7,500.00 |
| 93-CC-1853 | Rockford Radiology Assoc. | 133.00 |
| 93-CC-1868 | Parts Town, Div. of Reedy Equipment Services | 208.00 |
| 93-CC-1874 | Don's Welding & Fabricating | 435.00 |
| 93-CC-1935 | Anacomp, Inc.-Information Systems Div. | 689.52 |
| 93-CC-1936 | Trilogy, Inc. | 10,835.00 |
| 93-CC-1938 | Roesch, Larry, Chevrolet | 888.28 |
| 93-CC-1939 | Swedish American Hospital | 517.00 |
| 93-CC-1959 | Commerce Clearing House, Inc. | 243.20 |
| 93-CC-1960 | Midwest Community Council | 6,945.40 |
| 93-CC-1965 | Loyola Medical Practice Plan | 824.00 |
| 93-CC-1966 | Loyola Medical Practice Plan | 20.00 |
| 93-CC-1967 | Loyola Medical Practice Plan | 166.00 |
| 93-CC-1968 | Loyola Medical Practice Plan | 376.00 |
| 93-CC-1969 | Loyola Medical Practice Plan | 42.00 |
| 93-CC-1971 | Loyola Medical Practice Plan | 96.00 |
| 93-CC-1972 | Loyola Medical Practice Plan | 437.00 |
| 93-CC-1973 | Loyola Medical Practice Plan | 516.00 |
| 93-CC-1979 | Chicago, City of | 2,319.90 |
| 93-CC-1990 | Lewis, Sabrina | 237.70 |
| 93-CC-2026 | Illinois at Chicago, University of | 18,750.00 |
| 93-CC-2047 | Community College Dist. #508, Board of Trustees of | 280.94 |
| 93-CC-2049 | Community College Dist. #508, Board of Trustees of | 807.46 |
| 93-CC-2050 | Community College Dist. #508, Board of Trustees of | 665.08 |

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| 93-CC-2051 | Community College Dist. #508, Board of Trustees of | 177.50 |
| 93-CC-2052 | Community College Dist. #508, Board of Trustees of | 540.00 |
| 93-CC-2053 | Community College Dist. #508, Board of Trustees of | 933.50 |
| 93-CC-2054 | community College Dist. #508, Board of Trustees of | 146.00 |
| 93-CC-2055 | Community College Dist. #508, Board of Trustees of | 512.50 |
| 93-CC-2057 | Community College Dist. #508, Board of Trustees of | 176.00 |
| 93-CC-2058 | Community College Dist. #508, Board of Trustees of | 146.00 |
| 93-CC-2059 | Community College Dist. #508, Board of Trustees of | 335.00 |
| 93-CC-2060 | Community College Dist. #508, Board of Trustees of | 335.00 |
| 93-CC-2070 | Prairie State Legal Services, Inc. | 7,734.00 |
| 93-CC-2071 | Production Supplies, Inc. | 363.47 |
| 93-CC-2088 | Cook County Dept. of Public Health | 10,956.35 |
| 93-CC-2094 | Acme Propane, Inc. | 19.50 |
| 93-CC-2103 | Ebel's Ace Hardware | 265.51 |
| 93-CC-2130 | Kankakee Community College | 291.00 |
| 93-CC-2142 | Ram Industries, Inc. | 4,480.00 |
| 93-CC-2156 | Lipschutz, Harold, M.D. | 224.00 |
| 93-CC-2188 | Health Directions | 22.00 |
| 93-CC-2220 | Loyola University of Chicago | 630.00 |
| 93-CC-2221 | Loyola University of Chicago | 412.50 |
| 93-CC-2233 | Xerox Corp. | 1,169.06 |
| 93-CC-2257 | UHH Home Services Corp. | 198.80 |
| 93-CC-2260 | UHH Home Services Corp. | 21.30 |
| 93-CC-2293 | Phillips Chevrolet | 562.28 |
| 93-CC-2307 | Reliable **Glass** Co. | 1,976.00 |
| 93-CC-2311 | Vandenberg, Mark, Ambulance | 103.50 |
| 93-CC-2312 | Vandenberg, Mark, Ambulance | 107.98 |
| 93-CC-2314 | Ingalls Memorial Hospital | 9,566.70 |
| 93-CC-2315 | Johnson & Associates Business Interiors, Inc. | 632.00 |
| 93-CC-2319 | Community College Dist. #508, Board of Trustees of | 209.00 |
| 93-CC-2323 | Moline Electric Supply Co. | 42.26 |

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| 93-CC-2336 | Bramel, Jennifer | 562.00 |
| 93-CC-2349 | Koenen, Marianne | 32.20 |
| 93-CC-2355 | Staniec, Marjan P. | 63.00 |
| 93-CC-2358 | City of Country Club Hills | 7,578.00 |
| 93-CC-2363 | Packer Engineering, Inc. | 4,112.56 |
| 93-CC-2403 | Lipschultz, Harold, M.D. | 150.00 |
| 93-CC-2428 | Peoples Gas | 1,824.34 |
| 93-CC-2440 | Jayaram, Nittor R., M.D. | 133.30 |
| 93-CC-2865 | Marsalek, Diann K. | 138.55 |
| 93-CC-3021 | Farley, Brian | 192.00 |

# STATE COMPTROLLER ACT
# REPLACEMENT WARRANTS

## FY 1993

If the Comptroller refuses to draw and issue a replacement warrant, or if a warrant has been paid after one year from date of issuance, persons who would be entitled under 15 ILCS 405/10.10, formerly Ill. Rev. Stat. 1989, ch. 15, par. 210.10, to request a replacement warrant may file an action in the Court of Claims for payment.

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|---|---|---|
| 91-CC-1458 | Stone, John H. | $ 154.00 |
| 91-CC-1459 | Stone, John H. | 83.00 |
| 91-CC-2708 | Brandstetter, Hugo & Wanda | 1,244.21 |
| 91-CC-2709 | O'Meara, Ruth B. | 478.14 |
| 91-CC-2798 | Puleo, Michael | 113.00 |
| 91-CC-2962 | Land, James & Carol M. | 7.54.04 |
| 91-CC-2965 | Northwestern Memorial Hospital | 2,467.25 |
| 91-CC-3035 | Rosernont, Village Treasurer of | 6,948.70 |
| 91-CC-3054 | Carmel, James E.; Trustee in Bankruptcy Est. of V.I.P. Security, Inc. | 5,208.00 |
| 91-CC-3241 | Busch, Joseph P. | 22.79 |
| 91-CC-3273 | Resendiz, Jose A. | 61.00 |
| 92-CC-0506 | Monk, David | 24.50 |
| 92-CC-0613 | Ng, William S. | 33.45 |
| 92-CC-1319 | Super Sky Constructors | 3,064.70 |
| 92-CC-1517 | Kinmundy City Clerk | 2,714.02 |
| 92-CC-1637 | Little, Roger A. & Camille C. | 165.00 |
| 92-CC-1638 | Royal Crown Cola of Vincennes | 337.27 |
| 92-CC-2154 | Weinstein, La Verne | 289.34 |
| 92-CC-2261 | Reilly, Edward & Sharon | 114.00 |
| 92-CC-2298 | Barkley, Clare & Bruce | 162.00 |
| 92-CC-2386 | Killebrew, Mark E. | 432.07 |
| 92-CC-2483 | Urrnan, Linda | 27.00 |
| 92-CC-2504 | Larbourn Medical Center Pharmacy | 5,749.51 |
| 92-CC-2505 | Larbourn Medical Center Pharmacy | 3,625.94 |
| 92-CC-2506 | Larbourn Medical Center Pharmacy | 1,678.71 |
| 92-CC-2528 | Kohler, Robert W. | 25.01 |

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| 92-CC-2600 | Evanston Hospital | 8,942.97 |
| 92-CC-2687 | Compaq Computer Corp. | 3,273.74 |
| 92-cc-2752 | Debow, Ruth W. | 52.54 |
| 92-CC-2753 | Debow, Ruth W. | 2,112.12 |
| 92-CC-2754 | Debow, Ruth W. | 2,112.12 |
| 92-cc-2755 | Debow, Ruth W. | 2,102.09 |
| 92-CC-2756 | Debow, Ruth W. | 2,102.09 |
| 92-CC-2757 | Debow, Ruth W. | 2,102.09 |
| 92-CC-2758 | Debow, Ruth W. | 2,102.09 |
| 92-cc-2759 | Debow, Ruth W. | 2,102.09 |
| 92-CC-2760 | Debow, Ruth W. | 2,102.09 |
| 92-CC-2761 | Debow, Ruth W. | 2,102.09 |
| 92-CC-2762 | Debow, Ruth W. | 2,078.81 |
| 92-CC-2763 | Debow, Ruth W. | 2,078.81 |
| 92-CC-2764 | Debow, Ruth W. | 2,078.81 |
| 92-CC-2765 | Debow, Ruth W. | 2,078.81 |
| 92-CC-2766 | Debow, Ruth W. | 2,078.81 |
| 92-CC-2767 | Debow, Ruth W. | 2,078.81 |
| 92-CC-2768 | Debow, Ruth W. | 2,078.03 |
| 92-CC-2776 | Debow, Ruth W. | 2,112.12 |
| 92-CC-2779 | Edmar Foods | 3,851.75 |
| 92-CC-2782 | Adkisson, Wayne J., Jr.; Exec. for the Estate of Anna P. Chrzanowski | 236.12 |
| 92-CC-2794 | Dunn, Jeanne E. | 25.71 |
| 92-CC-2822 | Devore, Glenn E. & Mary | 386.00 |
| 92-CC-2823 | Szabo, George & Marjorie | 125.00 |
| 92-CC-2839 | Scales, Larue & Wesley | 171.00 |
| 92-CC-2846 | Devane, Michael F. | 500.00 |
| 92-CC-2847 | Devane, Michael F. | 80.00 |
| 92-CC-2848 | Devane, Michael F. | 500.00 |
| 92-CC-3009 | Baur, James C. | 72.20 |
| 92-CC-3022 | Fitch, Debbie Zimmerman | 67.00 |
| 92-CC-3057 | Saint Joseph Medical Center | 5,184.00 |
| 92-cc-3065 | Stempien-Niles, Catherine F. | 780.56 |
| 92-CC-3082 | Johnson, Cheryl K. | 31.00 |
| 92-CC-3104 | Casalini, Libri | 1,265.77 |
| 92-CC-3111 | Unsbee, Lewis: as Admr. of the Estate of Marie Boyette | 15.48 |
| 92-CC-3132 | Lahey, Judith G. | 1,020.87 |
| 92-CC-3144 | Dean, Hoffinann & Clark Pathologists, S.C. | 1,169.39 |
| 92-CC-3145 | Dean, Hoffmann & Clark Pathologists, S.C. | 4,201.21 |

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| 92-CC-3146 | Dean, Hoffmann & Clark Pathologists, S.C. | 5,955.44 |
| 92-CC-3155 | Wilkins, Ruthie M. | 6.00 |
| 92-CC-3165 | Allen, Billy | 80.00 |
| 92-CC-3166 | Sprechman, Marni E. | 6.00 |
| 92-CC-3167 | Calungcagin, Catalina G. | 31.00 |
| 92-CC-3176 | Duchossois Industries, Inc. | 10,610.83 |
| 92-CC-3193 | Merchants National Bank | 2,612.80 |
| 92-CC-3194 | Merchants National Bank | 2,973.43 |
| 92-CC-3247 | Holcomb, Abbie A. | 65.81 |
| 92-CC-3248 | Maryland National Bank | 4,035.74 |
| 92-CC-3257 | McPheters, Brian L.; for the Estate of Timothy E., Dec'd, & Agnes McGraw | 80.42 |
| 92-CC-3303 | Graf, Robert C. & Marilyn | 286.00 |
| 92-CC-3308 | Nikula, Geraldine | 103.00 |
| 92-CC-3341 | Anderson, Carl A. & Dorothy L. | 63.47 |
| 93-CC-0011 | Weger, Scott A. | 16.21 |
| 93-CC-0020 | Martinez, Edmundo & Cecilia | 1,102.00 |
| 93-CC-0032 | Berger, Murry | 54.00 |
| 93-CC-0060 | **Fisher, William P.** & Katherine G. | 15.00 |
| 93-CC-0088 | Thayer, Donald & Geraldine | 201.73 |
| 93-CC-0162 | Espenshade, Esther E. | 1,758.65 |
| 93-CC-0163 | Espenshade, Esther E. | 1,705.12 |
| 93-CC-0178 | *5G* NMR, Inc. | 2,117.05 |
| 93-CC-0179 | 3G CT Scanning, Inc. | 30.05 |
| 93-CC-0180 | *5G* NMR, Inc. | 94.20 |
| 93-CC-0181 | 4G Digital Scan, Inc. | 3.11 |
| 93-CC-0229 | Edminson, Thomas | 102.00 |
| 93-CC-0262 | Mira, Fidel A. & Elena L. | 173.33 |
| 93-CC-0264 | West Court Travel, Ltd. | 317.19 |
| 93-CC-0274 | Meyers, Joanne A. | 552.29 |
| 93-CC-0297 | Ariel, David, M.D. | 20.00 |
| 93-CC-0309 | Arias, Jaime R. | 49.00 |
| 93-CC-0365 | Bandor, Donna L. | 735.07 |
| 93-CC-0366 | Terzich, Robert & Barbara | 321.98 |
| 93-CC-0372 | Cortesi, Kenneth J. | 1,316.97 |
| 93-CC-0387 | Citizens Nat'l Bank of Downers Grove for the Estate of Esther Espenshade | 1,758.65 |
| 93-CC-0425 | Fontana, Josephine; Exec. of the Estate of Stella M. Spina, Dec'd | 88.68 |
| 93-CC-0457 | Benn, Joclede J. | 122.81 |
| 93-CC-0523 | LaSorella, Gertrude M. | 148.88 |

| | | |
|---|---|---|
| 93-CC-0568 | Sanchez, Lois A. & Alex **R.** | 37.97 |
| 93-CC-0607 | Fritsch, Gwynne S. & Ruth **E.** | 285.00 |
| 93-CC-0616 | Dunn, Kathleen R. | 26.49 |
| 93-CC-0652 | Adams, Billie | 1,444.54 |
| 93-CC-0700 | Frost Communications | 292.56 |
| 93-CC-0763 | Cichocki, Stella **E.** | 607.00 |
| 93-CC-0889 | Sedej, Ann & John | 192.35 |
| 93-CC-1038 | Tesler, Stanley A. & Dianne R. | 220.69 |
| 93-CC-1041 | Cuevas, Maria | 1,500.00 |
| 93-CC-1212 | Waller, Stephen J. | 20.68 |
| 93-CC-1255 | Smits, Marylyn J. & Dennis **L.** | 73.00 |
| 93-CC-1327 | Evans, Patricia R. | 49.00 |
| 93-CC-1343 | Anden Group/TMD Corp. | 4,019.32 |
| 93-CC-1345 | Nativo, Michael & Pearl | 60.00 |
| 93-CC-1448 | Johnson, Annie | 285.45 |
| 93-CC-1513 | **Rose,** Henry & Patricia | 29.22 |
| 93-CC-1548 | Hawkinson, Richard D. | 27.56 |
| 93-CC-1560 | Sallo's Appliance Store | 240.00 |
| 93-CC-1566 | Novak, Cory | 4,958.00 |
| 93-CC-1574 | Ellington, Gloria | 223.36 |
| 93-CC-1603 | Ruckdeschel, Sarah Ann | 94.63 |
| 93-CC-1604 | Prickett, Andrew J. | 19.94 |
| 93-CC-1651 | Marriott, Celia | 4,021.00 |
| 93-CC-1792 | Daleo, Matthew J. | 237.00 |
| 93-CC-1793 | Daleo, Matthew J. & Gail C. | 255.00 |
| 93-CC-2101 | Monarres, Leonel | 38.00 |
| 93-CC-2167 | Mertens, Charles K. | 26.00 |
| 93-CC-2281 | Peszynski, Linda | 397.53 |
| 93-CC-2331 | Bustamante, Blanca | 14.00 |
| 93-CC-2819 | Bruno, Edward | 4,602.75 |

## PRISONERS AND INMATES MISSING PROPERTY CLAIMS

### FY 1993

The following list of cases consists of claims brought by prisoners and inmates of State correctional facilities against the State to recover the value of certain items of personal property of which they were allegedly possessed while incarcerated, but which were allegedly lost while the State was in possession thereof or for which the State was allegedly otherwise responsible. Consistent with the cases involving the same subject matter appearing in full in previous Court of Claims Reports, these claims were all decided based upon the theories of bailments, conversion, or negligence. Because of the volume, length, and general similarity of the opinions, the full texts of the opinions were not published, except for those claims which may have some precedential value.

| | | |
|---|---|---|
| 87-CC-0205 | West, Richard | $ 52.14 |
| 87-CC-1185 | Rivera, Hector | 87.73 |
| 88-CC-0698 | Bullock, Albert | 219.70 |
| 89-CC-1627 | Bolden, Orlandis | 37.01 |
| 90-CC-0855 | Levy, Enrico | 280.00 |
| 90-CC-1392 | Lawrence, Clifford | 20.00 |
| 90-CC-1720 | Lawrence, Clifford | 217.66 |
| 90-CC-2023 | Carlson, James | 75.00 |
| 90-CC-3020 | Cowart, William B., El | 175.00 |
| 90-CC-3338 | Rial, Larry R. | 20.00 |
| 91-CC-0581 | Smrekar, Russell A. | 250.00 |
| 91-CC-1836 | Coleman, William L. | 920.00 |
| 91-CC-2020 | Wilson, Lorenzo | 30.00 |
| 91-CC-3467 | Pool, Marcus H. | 75.00 |
| 92-CC-0173 | Smith, Crawford | 45.00 |
| 92-CC-1146 | Verive, Joseph A. | 24.00 |
| 93-CC-0130 | Pecor, Gregory C. | 25.00 |

## STATE EMPLOYEES' BACK SALARY CASES

## FY 1993

Where as a result of lapsed appropriation, miscalculation of overtime or vacation pay, service increase, or reinstatement following resignation, and so on, a State employee becomes entitled to back pay, the Court will enter an award for the amount due, and order the Comptroller to pay that sum, less amounts withheld properly for taxes and other necessary contributions, to the Claimant.

**93-CC-0430** Gaddy, Shanda **$292.22**

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## REFUND CASES

## FY 1993

The majority of the claims listed below arise from overpayments of license plate fees by senior citizens who are or were eligible for circuit breaker discounts by the Office of the Secretary of State. The remaining refunds are for overcharges or overpayments by or to various State agencies.

| | | |
|---|---|---|
| 92-CC-0035 | Drabowicz, Wojciech | $ 325.00 |
| 92-CC-0838 | Buckius, Kathleen M. | 144.00 |
| 92-CC-1705 | Molla, Matthew A. | 60.00 |
| 92-CC-1763 | Kerchenfaut, Charles | 318.00 |
| 92-CC-1837 | Hansen, Donald | 48.00 |
| 92-CC-2060 | Bruce, Abraham W. | 30.00 |
| 92-CC-2495 | Gorak, Dons G. | 48.00 |
| 92-CC-2508 | Lawrence, Gerald | 30.00 |
| 92-CC-2718 | Haroon, Soomro M. | 30.00 |
| 92-CC-2804 | Szczechula, Andrew | 30.00 |
| 92-CC-2821 | Holt, Mark W. | 30.00 |
| 92-CC-2845 | Vivero, Alberto | 60.00 |
| 92-CC-2949 | Bivans, Paul T. | 30.00 |
| 92-CC-3112 | Schultz, John F. | 60.00 |
| 92-CC-3196 | Hallenstein, Craig | 48.00 |
| 92-CC-3228 | Dakuras, James | 30.00 |
| 92-CC-3258 | Scott, Jennifer M. | 30.00 |
| 92-CC-3296 | Tomes, Almanzor A. | 4,055.00 |
| 92-CC-3302 | Conn, George A. | 60.00 |
| 92-CC-3340 | Guzman, Severo G. | 60.00 |
| 92-CC-3352 | Cernuska, Andrew | 400.00 |
| 93-CC-0001 | Recht, Paul J. | 30.00 |
| 93-CC-0018 | Robles, Carpio | 1,210.00 |
| 93-CC-0019 | Bundrick, Julie | 10.00 |
| 93-CC-0027 | Flannigan, Phillip | 30.00 |
| 93-CC-0031 | Smith, Mitchell E. | 30.00 |
| 93-CC-0096 | Gratalo, John, Jr. | 30.00 |
| 93-CC-0108 | United Parcel Service | 516.00 |

| | | |
|---|---|---|
| 93-CC-0123 | Busse, Gregory **F.** | 30.00 |
| 93-CC-0126 | Collester, J. Bryan | 15.00 |
| 93-CC-0171 | Chang, Ki **Sup** | 30.00 |
| 93-CC-0201 | Zickert, Kurtis M. | 30.00 |
| 93-CC-0307 | Eiserman, Charles R. | 60.00 |
| 93-CC-0308 | Ervin, Letrinia | 30.00 |
| 93-CC-0345 | **U.S.** Dept. of Justice/Office of Justice Programs | 1,911.00 |
| 93-CC-0423 | Wierling, Daniel G. | 48.00 |
| 93-CC-0424 | McCarthy, Joseph J. | 15.00 |
| 93-CC-0426 | Margulis, David **H.** | 30.00 |
| 93-CC-0458 | Wingert, Ina Helene | 48.00 |
| 93-CC-0459 | Dzierwa, Mark J. | 30.00 |
| 93-CC-0490 | Davis, Gary | 60.00 |
| 93-CC-0503 | Czmut, Piotr | 1,150.00 |
| 93-CC-0515 | Serino, Nicola | 90.00 |
| 93-CC-0542 | Birutas, Robert | 30.00 |
| 93-CC-0590 | Stewart, Desiree | 30.00 |
| 93-CC-0670 | McAteer, Adrian | 30.00 |
| 93-CC-0720 | Montgomery, Deborah | 60.00 |
| 93-CC-0771 | Pomaville, Michael M. | 30.00 |
| 93-CC-0895 | Lake-Fong, Patricia A. | 30.00 |
| 93-CC-1266 | Ziv, Peter G. | 30.00 |
| 93-CC-1301 | Sierros, Dina | 48.00 |
| 93-CC-1311 | Gusich, Ellen | 43.00 |
| 93-CC-1400 | Ruane, Paul R. | 30.00 |
| 93-CC-1447 | Larson, Robert **R.** | 30.00 |
| 93-CC-1615 | Doggett, Tyra L. | 30.00 |
| 93-CC-1760 | Guercio, Glenn S. | 48.00 |
| 93-CC-1787 | Northington, Victor C. | 30.00 |
| 93-CC-1997 | Nicholus, Raymond S., Jr. | 48.00 |
| 93-CC-2304 | Derby, Matthew **B.** | 30.00 |
| 93-CC-2334 | Walton, Maurice L. | 30.00 |
| 93-CC-2367 | Hanson, Gregory | 30.00 |
| 93-CC-2384 | Roberson, Thomas M. | 60.00 |

## PUBLIC AID MEDICAL VENDOR AWARDS

### FY 1993

The decisions listed below involve claims filed by vendors seeking compensation for medical services rendered to persons eligible for medical assistance under programs administered by the Illinois Department of Public Aid.

| | | |
|---|---|---|
| 87-CC-4144 | Friedell Clinic | $997.50 |
| 88-CC-0037 | Ingalls Memorial Hospital | 840.00 |
| 88-CC-0631 | David, Enrique, M.D. | 234.08 |
| 88-CC-0632 | David, Enrique, M.D. | (Paid under claim 88-CC-0631) |
| 88-CC-2009 | Family Service & Community Mental Health Center for McHenry County | 530.39 |
| 92-CC-2010 | Family Service & Community Mental Health Center for McHenry County | 75.25 |
| 92-CC-2012 | Family Service & Community Mental Health Center for McHenry County | 104.51 |
| 92-CC-2013 | Family Service & Community Mental Health Center for McHenry County | 5.02 |
| 92-CC-2014 | Family Service & Community Menial Health Center for McHenry County | 5.02 |
| 92-CC-2015 | Family Service & Community Menial Health Center for McHenry County | 2.51 |
| 92-CC-2016 | Family Service & Community Menial Health Center for McHenry County | 19.08 |
| 92-CC-2017 | Family Service & Community Mental Health Center for McHenry County | 466.55 |
| 92-CC-2018 | Family Service & Community Mental Health Center for McHenry County | 5.02 |
| 92-CC-2019 | Family Service & Community Mental Health Center for McHenry County | 20.08 |
| 92-CC-2020 | Family Service & Community Mental Health Center for McHenry County | 25.10 |
| 92-CC-2021 | Family Service & Community Mental Health Center for McHenry County | 5.02 |
| 92-CC-2022 | Family Service & Community Mental Health Center for McHenry County | 460.25 |

| | | |
|---|---|---|
| 92-CC-2023 | Family Service & Community Mental Health Center for McHenry County | 238.33 |
| 92-CC-2024 | Family Service & Community Mental Health Center for McHenry County | 33.40 |
| 92-CC-2025 | Family Service & Community Mental Health Center for McHenry County | 66.91 |
| 92-CC-2026 | Family Service & Community Mental Health Center for McHenry County | 10.04 |
| 92-CC-2027 | Family Service & Community Mental Health Center for McHenry County | 5.02 |
| 92-CC-2028 | Family Service & Community Mental Health Center for McHenry County | 45.18 |
| 92-CC-2029 | Family Service & Community Mental Health Center for McHenry County | 20.08 |

Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of $200.00 or more; notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable to the victim's wrongful act or substantial provocation; and his claim was filed in the Court of Claims within one year of the date of injury, compensation is payable under the Act.

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## OPINIONS PUBLISHED IN FULL
## FY 1993

(Nos. Unassigned—Petitions denied.)

***In re* PETITIONS OF CYNTHIA LARRY**

*Order filed December 21, 1992.*

CYNTHIA **LARRY, *pro se,*** for Claimant.

ROLAND W. BURRIS, Attorney General (JAMES MAHER III and ANDREW LEVINE, Assistant Attorneys General, of counsel), for Respondent.

CHIME VICTIMS COMPENSATION ACT—*when applications for compensation must he filed—legal disability exception.* Pursuant to section 6.1(a) of the Crime Victims Compensation Act, applications for compensation must be filed within one year of the date of the crime, and upon good cause shown the time for filing applications may be extended one year by the Court of Claims, but the Act allows a person under legal disability at the time of the occurrence or who becomes legally disabled as a result of the occurrence to file the application within one year after the disability is removed.

*SAME—mother's petitions for extension of time to file claims for herself and daughter denied—no evidence of legal disability.* A mother's petitions for extensions of time to file applications to claim benefits on behalf of herself and her daughter under the Crime Victims Compensation Act were denied,

since the petitions were filed more than two years after the date of the alleged crimes in question and, although the petitions suggested that the mother may have been incapacitated due to mental stress and alcoholism, there was insufficient evidence to support a finding that she was under a legal disability during the relevant time period.

ORDER

MONTANA, C.J.

These causes come on to be heard on petitions for extensions of time to file applications to claim benefits under the Crime Victims Compensation Act (Ill. Rev. Stat., ch. 70, par. 71 *et seq.),* hereinafter referred to as the Act. Cynthia Larry filed both, one arising out of an alleged incident wherein she was the victim and the other arising out of a separate alleged incident wherein her daughter was the victim.

Section 6.1(a) of the Act requires that applications for compensation be filed within one year of the date of the crime. Upon good cause shown, the time for filing applications may be extended one year by the Court. Pursuant to General Order No. *3,* all petitions for extensions of time to file applications which are filed with the clerks office within 24 months of the date of the crime are granted. **Ms.** Larry's petitions were filed on August 6, 1990. They allege that she was a victim of a crime which occurred on October 25, 1986, and her daughter was a victim of a crime which occurred on August 3,1988. Thus both petitions were filed beyond the period allowed by General Order No. 3.

The Act does, however, provide an exception to the time limits described above. Section 6.1(a) allows a person "under legal disability at the time of the occurrence or (who) becomes legally disabled as a result of the occurrence" to file the application within one year after the dis-

ability is removed. Both petitions included statements that indicated Claimant may have been suffering from mental stress, was under the care of a psychiatrist, and had been incapable of handling matters after her daughter's death. On March 25, 1991, the Court ordered that a hearing be conducted on the issue of Petitioner's legal disability.

The cases were assigned to a commissioner who scheduled a hearing for June 11, 1991. Petitioner appeared at the hearing and was advised of the nature of the proceeding. The hearing was continued to allow her to obtain documentation or witnesses to support the claimed incapacity. A second hearing was conducted on September 20, 1991. Ms. Larry appeared and testified.

At the hearing, Petitioner did not provide any medical opinions, diagnoses, other documents, or any witnesses to corroborate a claim of incapacity. She testified she was not able to handle her personal or financial affairs. She stated she was receiving treatment for alcoholism at Ingalls Hospital in Harvey, Illinois. She provided the name of her treating physician, and her counselor at Echoes, an alcohol treatment center. Petitioner was advised by the commissioner that the Court does not conduct independent investigations and that the burden was on her to prove her case.

Additional information pertaining to the petition relating to the daughter was elicited. Petitioner stated that her daughter, Dionne Stanford, 25 years old, filed an application on her own behalf after the August 3, 1988, attack. Dionne Stanford was not Petitioner's dependent. Petitioner did not pay any medical expenses incurred by her daughter as a result of the crime. According to Claimant, Dionne Stanford died of an overdose of alcohol,

cocaine and opiate intoxication on December 10, 1988. The death was not related to injuries sustained in the August 3, 1988, incident. Petitioner presented a physician's report dated July 31, 1991, and three copies of health insurance claim forms. The physician's report referenced an injury that occurred on July 19, 1988, two weeks prior to the date of the crime. The Assistant Attorney General stated that his office did not have any documents showing that a Dionne Stanford filed an application for compensation on her own behalf. The clerk's office has no record of such an application either.

At the conclusion of the hearing, Petitioner was given 60 days to mail to the commissioner any additional documents she wanted the Court to consider, or to request an additional hearing date to provide testimony of a witness. No documents or requests were received.

The Act does not define "legal disability" nor does it state when or how a person "becomes legally disabled." The term "disabled person" is defined in the Probate Act of 1975. (Ill. Rev. Stat. 1989, ch. 110½, par. lla — 2.) The term is defined to include a person not fully able to manage her person or her estate because of mental deterioration, physical incapacity, mental illness, developmental disability or being a spendthrift. The Probate Act provides for a procedure whereby a person is adjudged to be disabled. There is no evidence Petitioner was the subject of any such proceeding and there is not sufficient evidence to support a ruling that Petitioner was, or is, under a legal disability.

It is therefore ordered that the petitions at bar be, and hereby are, denied.

(No. Unassigned—Claim denied.)

*In re* PETITION OF LOUIA MCDONALD

***Opinionfiled December 21, 1992.***

LOUIA MCDONALD, *pro se,* for Claimant.

ROLAND W. BURRIS, Attorney General (JAMES MAHER III and ANDREW LEVINE, Assistant Attorneys General, of counsel), for Respondent.

CRIME VICTIMS COMPENSATION ACT—time *for filing application* for *benefits-extension* for *persons under legal disability.* Section 6.1(a) of the Crime Victims Compensation Act requires that an application for benefits be filed within one year of the date of the crime upon which the claim is based, and the Court of Claims can extend that period up to another year, but where a person is under a legal disability he may file a claim within one year of the removal of that disability.

***SAME—petition by decedent's husband*** for *extension* of *time to file claim denied-no proof of legal disability.* Where the deceased victim's husband sought an extension of time to file a claim under the Crime Victims Compensation Act, alleging that he was unaware of the applicable time limits and was under emotional stress as a result of his wife's death, his petition was denied because it was filed more than two years after the occurrence of the crime upon which his claim was based, and he failed to produce evidence that he was under any legal disability.

## OPINION

MONTANA, C.J.

This claim is before the Court on the petition for extension of time to file necessary documents to claim compensation under the Illinois Crime Victims Compensation Act (Ill. Rev. Stat., ch. 70, par. **71** *et seq.*), hereinafter referred to as the Act. Section 6.1(a) of the Act requires that an application be filed within one year of the date of the crime upon which the claim is based. This Court can extend that period up to another year. In an order dated April **4,** 1991, this Court determined that Claimant's petition was not timely. The Claimant then sent a letter to the Court indicating he disagreed with the

Court's decision. Pursuant to the Act, Claimant was granted a hearing before Commissioner Phillip A. Turner. Commissioner Turner has duly filed his report with the Court.

The issue in this matter is whether Mr. McDonald's claim which was filed on December 31, 1991, more than two years after the crime occurred on June **23,** 1987, is timely, The record shows that Mr. McDonald stated he filed his claim when he did because he was not aware of the time limits and because he was under emotional stress caused by the death of his wife, the victim of the crime. Mr. McDonald further stated he was not hospitalized during the period in which he was to file the claim. However, he did see a counselor whom he believed to be a psychiatrist. He also was not taking any drugs which affected his mind. After the death of his wife in 1987 until March 15, 1990, he was working for Coca Cola Bottling Company as a forklift operator. He paid his rent in a timely fashion and generally did not exhibit any behavior from which one could draw the inference that he was insane or had lost his mental capacity.

Section 6.1 of the Act was amended in 1990. The amendments pertinent to this matter state that a person may file a claim within one year of the removal of any legal disability. The historical and statutory notes to the amended section state that the amendments apply to all claims pending or filed after July 1, 1990. However, even if this case were reviewed under the 1990 amendments, Mr. McDonald would nevertheless be barred from proceeding. Mr. McDonald has not provided any evidence that he was under any legal disability, such as being declared a disabled person pursuant to the Illinois Probate Act, or anything of that nature. As a result, his claim must be viewed as having been filed more than two years

after the occurrence of the crime and is, therefore, untimely.

Based on the foregoing, it is hereby ordered that Claimant's petition for extension of time be, and is, hereby denied.

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(No. 83-CV-0536—Claim denied.)

*In re* APPLICATION OF FREDERICK DYMON

*Order filed September 25, 1985.*
*Order filed October 16, 1992.*

**JONAH ROSEBERG,** for Claimant,

NEIL F. HARTIGAN and ROLAND W. BURRIS, Attorneys General **(ALISON** P. BRESLAUER and **JAMES** MAHER III, Assistant Attorneys General, of counsel), for Hespondent.

CRIME VICTIMS *COMPENSATION* ACT—*eligibility requirements—cooperation with law enforcement officials.* Section **76.1** of the Crime Victims Compensation Act provides that a person is entitled to compensation under the Act if law enforcement officials were notified of the perpetration of the crime and the applicant cooperated fully with law enforcement officials in the apprehension and prosecution of the assailant.

***SAME—Claimant refused to identify assailant or cooperate in police investigation-claim denied.*** The Court of Claims denied a request for benefits under the Crime Victims Compensation Act where the Claimant, who had been involved in a verbal dispute with his assailant prior to being stabbed by him, refused to identify the attacker **or** cooperate with police in any way when they came to the Claimant's home during their investigation.

## ORDER

POCH, J.

This claim arises out of an incident that occurred on December 13, 1981. Frederick Dymon, Claimant, seeks

compensation pursuant to the provisions of the Crime Victims Compensation Act, hereafter referred to as the Act. Ill. Rev. Stat. 1979, ch. 70, par. 71 *et seq.*

This Court has carefully considered the application for benefits submitted on December 13, 1982, on the form prescribed by the Attorney General, and an investigatory report of the Attorney General of Illinois. Based upon these documents and other evidence submitted to the Court, the Court finds:

1. That on December 13, 1981, the Claimant was stabbed by an unknown offender. The incident occurred in an apartment located at 1512 West Huron, Chicago, Illinois. Police investigation revealed that prior to the incident, the Claimant and the offender were involved in a verbal dispute. During this dispute, the offender produced a handgun and a knife. The Claimant attempted to grab the handgun from the offender but was stabbed in the wrist and forearm. The Claimant was taken to Saint Mary of Nazareth Hospital for treatment of his injuries. On January 17, 1982, the Claimant was contacted by investigators from the Chicago Police Department who were seeking information regarding this incident. The Claimant refused to cooperate with the police in their investigation. The Claimant did agree that he had been injured but refused to identify anyone as his assailant or comment further on the incident. As a result the police classified this incident as unfounded.

2. That sections 76.1(c) and (d) of the Act states that a person is entitled to compensation under the Act if the appropriate law enforcement officials were notified of the perpetration of the crime and the applicant has cooperated fully with law enforcement officials in the apprehension and prosecution of the assailant.

**3.** That it appears from the police report that the Claimant declined to cooperate fully with law enforcement officials in the apprehension of the assailant, in that he refused to identify his assailant or cooperate in any way with the follow-up police investigation.

**4.** That by reason of the Claimant's refusal to fully cooperate with law enforcement officials in the apprehension and prosecution of the assailant as required by the Act, he is not eligible for compensation thereunder.

It is hereby ordered that this claim be, and is hereby denied.

OPINION

PATCHETT, J.

Claimant, Frederick Dymon, filed an application with this Court seeking compensation under the Illinois Crime Victims Compensation Act for injuries he sustained as a victim of a violent crime on December 13, 1981.

An order was entered by this Court on September 25, 1985, denying this claim based upon the failure of the Claimant to cooperate fully with law enforcement officials in the apprehension and prosecution of his assailant, as required by section 76.1(c) of the Act. Claimant's attorney advised this Court in writing that the Claimant wished a hearing on the matter.

The sole issue in this case involves whether the Claimant cooperated fully with law enforcement officials.

An evidentiary hearing was conducted before a commissioner of this Court on January 26, 1987. The evidence showed that the Claimant was a victim of a violent crime on December 13, 1981, as defined by the Act.

Police were summoned to the scene, and the victim was transported to St. Mary's Hospital. The Claimant testified at the hearing that the police only substantially attempted to speak to him one time, and that was at 3:00 a.m. on the day of the incident. He further testified that he had attempted to cooperate with the police, and did so by telling the police what happened to the best of his ability.

The Respondent offered the testimony of Detective Harrington, who was assigned to the case. He testified that he went to the home of the victim and attempted to question the Claimant. It became clear that the Claimant, who was present, did not speak English. A woman who identified herself as the Claimant's daughter was present. She acted as an interpreter. Detective Harrington further testified that he told the woman the purpose of his visit. At all times relevant to this conversation, the Claimant was present and able to cooperate. Detective Harrington testified unequivocally that the Claimant refused to identify his attacker or to cooperate in any way with the investigation. The Claimant stated that he did not want to have any contact with the police. The conversation ended, and a follow-up report was prepared.

In rebuttal to Detective Harrington's testimony, the Claimant testified that he had no daughter living in the United States at the time of the incident. The Claimant also testified that he had never seen Detective Harrington prior to the date of the hearing.

Obviously this case hinges on the credibility of the parties involved. It is reasonable to believe that Detective Harrington did not fabricate the incident. It is reasonable to believe that the conversation did take place as testified to by Detective Harrington. There is absolutely no reason to believe that the Claimant at any time had any difficulty

understanding English, or required an interpreter. Had the Claimant offered the testimony of any witness who could have testified to his living arrangements at the time, his testimony might have been more credible. In weighing the testimony of the two individuals who testified, this Court can only conclude that Detective Harrington acted reasonably at all times and that his testimony is credible. Therefore, we deny this claim.

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(No. 84-CV-1157—Claim denied.)

*In re* APPLICATION OF LEE CAIN

*Order filed April 1, 1985*

*Opinion filed May 17, 1993.*

LEE CAIN, *pro se,* and JEROME J. ZELDEN, for Claimant.

NEIL F. HARTIGAN and ROLAND W. BURRIS, Attorneys General (ALISON P. BRESLAUER and CHARLES DAVIS, JR., Assistant Attorneys General, of counsel), for Respondent.

CRIME VICTIMS COMPENSATION ACT—*factors used to determine entitlement to compensation.* In order for a Claimant to be eligible for compensation under the Crime Victims Compensation Act, there must be evidence that one of the violent crimes specifically set forth under section 72(c) of the Act occurred, and an award shall be reduced or denied according to the extent to which the victim's conduct may have directly or indirectly contributed to his injury or death.

*SAME—victim involved in illegal activity when shot by police—officers lacked criminal intent—claim denied.* A father's claim for compensation stemming from the death of his son after he was shot by police was denied, since the officers, who were attempting to arrest the victim when he allegedly fired a gun at them, lacked the requisite criminal intent to establish a crime for which compensation could be granted, and the victim's own criminal activity contributed to his death.

ORDER

POCH, J.

This claim arises out of an incident that occurred on September 14, 1983. Lee Cain, father of the victim, Michael Cain, seeks compensation pursuant to the provisions of the Crime Victims Compensation Act, hereafter referred to as the Act. Ill. Rev. Stat. 1979, ch. 70, par. 71 *et seq.*

This Court has carefully considered the application for benefits submitted on May **21,** 1984, on the form prescribed by the Attorney General, and an investigatory report of the Attorney General of Illinois which **substantiates** matters set forth in the application. Based on these documents and other evidence submitted to the Court, the Court finds:

**1.** That on September 14, 1983, the victim was shot by a policeman during an attempted arrest of the victim for a previous crime. The incident occurred in an alley located at 6119 South Peoria, Chicago, Illinois. Police investigation revealed that **as** the police officer approached the victim's car, the victim produced a gun and shot him. The police officer returned fire, fatally wounding the victim. The victim was taken to St. Bernard's Hospital where he was pronounced dead on arrival. No charges were placed against the police officer by the State's Attorney's Office, **as** this incident was classified a justifiable homicide.

**2.** That the Claimant seeks compensation for funeral expenses only. The Claimant was not dependent upon the victim for support.

3. That section 80.1 of the Act indicates factors used to determine entitlement to compensation. Specifically,

section 80.1(d) of the Act states that an award shall be reduced according to the extent to which any prior criminal conviction or conduct of the victim may have directly or indirectly contributed to the injury or death of the victim.

**4.** That it appears from the investigatory report and the police report that the victim's death was substantially attributable to his shooting of a police officer who was attempting to arrest him. The police officer then returned fire, fatally wounding the victim. Thus the conduct of the victim directly contributed to his death to such an extent as to warrant that the Claimant be denied entitlement to compensation.

**5.** That in order for a claimant to be eligible for compensation under the Act there must be evidence that one of the violent crimes specifically set forth under section 72(c) of the Act occurred.

6. That the actions of the police officer did not constitute a crime specifically set forth under section 72(c) of the Act.

7. That the Claimant has not met required conditions precedent for compensation under the Act.

It is hereby ordered that this claim be, and is hereby, denied.

## OPINION

PATCHETT, J.

Claimant, Lee Cain, is seeking to be compensated for the costs of his son's funeral expenses. His son was shot to death by Chicago police officers on September **14,** 1983. The shooting took place in an alley located close to 6119 South Peoria, Chicago, Illinois.

At the hearing of this cause, the three Chicago police officers involved all testified that they had left their station that morning in an unmarked police vehicle with a specific intent to arrest Michael Cain, who was wanted for two outstanding warrants. These warrants included aggravated battery and unlawful use of a weapon. Ultimately, they found Mr. Cain in his automobile in the alley in question.

According to their testimony, they announced that they were police officers and drew their weapons. The officers testified that Mr. Cain then fired at them, and they returned the fire which resulted in Mr. Cain's death. Their testimony further suggests that a fragment of the bullet was recovered from Officer Dahlberg's vest, and that he was also struck with a fragment of a bullet in his left hand.

Three witnesses appeared on behalf of the Claimant. Each of these witnesses claimed to have independently witnessed the shooting. Their recollection and observations were not precise, but each witness claimed to have seen Mr. Cain raise his hands in surrender. None of these witnesses saw a gun in Mr. Cain's car. Therefore, it is the Claimant's contention that the police officers used excessive force in shooting and killing Michael Cain, and thereby their actions violate section 72(c) of the Crime Victims Compensation Act.

The Respondent alleges that the officers were properly performing their duty, but even if they used excessive force, their actions could not under law be considered a crime. The Respondent also contends, and the evidence suggests, that in fact there were three unregistered weapons found in the front seat of Mr. Cain's vehicle. That in itself is a crime which could have at least con-

tributed to Mr. Cain's death.

It is the opinion of this Court that the Claimant has failed to carry his burden of proof. Based on the facts before us, it is probable that Mr. Cain was involved in illegal activity at the time of his death. In addition, if the officers were performing their duty, even in the case of excessive force, their actions cannot under law be considered a crime absent the showing of some criminal mental state. There is totally no proof of such criminal intent or other mental state sufficient to establish a crime for which compensation could be granted in this case.

We therefore deny this claim.

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(No. 86-CV-1228—Claim denied.)

*In re* APPLICATION OF DIANA CLIFFORD

*Order filed October 30, 1990.*

*Order filed November 6, 1992.*

DIANA CLIFFORD, *pro se*, and EDMUND F. LANDBERG, for Claimant.

NEIL F. HARTIGAN and ROLAND W. BURRIS, Attorneys General (JAMES MAHER III, and CHARLES DAVIS, JR., Assistant Attorneys General, of counsel), for Respondent.

CRIME VICTIMS COMPENSATION ACT—*victim's attempted drug purchase contributed to his death—claim denied.* Where the deceased victim was attempting to purchase heroin and was in possession of marijuana at the time he was shot in the back, his conduct directly contributed to his death so as to preclude recovery by his mother in her claim under the Crime Victims Compensation Act seeking funeral expenses for the victim and compensation for loss of support for the victim's child.

ORDER

**MONTANA,** C.J.

This claim arises out of an incident that occurred on October 17, 1985. Diana Clifford, mother of the deceased victim, Robert Thomas Clifford, seeks compensation pursuant to the provisions of the Crime Victims Compensation Act, hereafter referred to as the Act. Ill. Rev. Stat. 1983, ch. 70, par. 71 ***et seq.***

This Court has carefully considered the application for benefits submitted on May 13, 1986, on the form prescribed by the Attorney General, and an investigatory report of the Attorney General of Illinois which substantiates matters set forth in the application. Based upon these documents and other evidence submitted to the Court, the Court finds:

1. That on October 17, 1985, the victim was shot during the course of a drug transaction with an unknown offender. The incident occurred in a parking lot at the intersection of Fifth Street and Chicago Street, Joliet, Illinois. Police investigation revealed that the victim went to this location to purchase heroin. During this transaction, the victim was shot in the back. The victim was found to have a small quantity of marijuana in his possession at the time of the incident. The alleged offender was apprehended and charged with two counts of murder. He was later found to be not guilty of these charges.

**2.** That section 80.1 of the Act indicates factors used to determine entitlement to compensation. Specifically, section 80.1(d) of the Act states that an award shall be reduced or denied according to the extent to which the victim's acts or conduct provoked or contributed to his injury or death, or to the extent to which any prior crimi-

nal conviction or conduct of the victim may have directly or indirectly contributed to the injury or death of the victim.

**3.** That it appears from the investigatory report and the police report that the victim was attempting to purchase heroin and was in the possession of marijuana at the time he **was** shot. Thus, the conduct of the victim directly contributed to his death.

**4.** That the victim's conduct Contributed to his death to such an extent as to warrant that the Claimant be denied entitlement to compensation.

5. That this claim does not meet a required condition precedent for compensation under the Act.

It is hereby ordered that this claim be, and is hereby denied.

ORDER

**MONTANA,** C.J.

On October **17, 1985,** Robert Thomas Clifford, the son of the applicant, **was** shot at the intersection of Fifth Street and Chicago Street, Joliet, Illinois.

On May **13, 1986,** the applicant filed a claim seeking funeral and burial expenses and loss of support for the victim's children pursuant to the provisions of the Crime Victims Compensation Act, hereinafter referred to as the Act. Ill. Rev. Stat. **1983,** ch. 70, par. 71 **et** *seq*.

On October **30,1990,** the Court of Claims issued an order denying the claim, finding that the victim was shot during the course of a drug transaction with an unknown offender. The Court relied on the police report which revealed that the victim went to the location to purchase

heroin and was subsequently killed. The victim was found to have a small quantity of marijuana in his possession at the time of the incident.

Section 80.1(d) of the Act states that an award shall be reduced or denied according to the extent to which the victim's acts or conduct provoked or contributed to his injury or death, or to the extent to which any prior criminal conviction or conduct of the victim may have directly or indirectly contributed to the injury or death of the victim. The Court found that the victim's death was substantially due to his attempting to purchase heroin at the time of the incident and such conduct warrants that any compensation for his death be denied.

On November 29, 1990, the applicant requested a hearing and on November 7, 1991, a hearing was held before Commissioner Michael E. Fryzel. Testifying at the hearing was the applicant, Diana Clifford, the mother of the victim.

The applicant recounted the night the incident occurred and repeated conversations she had with various individuals. Each of the individuals spoke to her about the alleged purchase of drugs.

Under cross-examination, the applicant admitted to having discussions with police who told her that the incident was drug related. In addition, a female companion of the victim also told the applicant about an alleged attempt to purchase drugs.

The police report, marked as Respondent's exhibit No. **1,** states that the victim went to the location of the crime to purchase drugs. During the transaction he was shot in the back. **A** small quantity of marijuana was also found on the victim at the time of the incident. The

alleged offender was apprehended and charged with two counts of murder. However, he was later found not guilty of those charges.

The police report and the testimony of the applicant indicate that the victim was attempting to purchase drugs and was in possession of marijuana at the time he was shot. Therefore, the conduct of the victim clearly contributed to his death.

It is the finding of this Court that the victim's conduct contributed to his death to such an extent as to warrant the claim be, and hereby is, denied..

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(No. 87-CV-0653—Claim denied.)

*In re* APPLICATION OF SHAHID HUSSAIN

*Opinion filed February* 24,1987.

*Order filed March* 30,1993.

FRED M. CAPLAN and EDWARD R. **DAVIS,** for Claimant.

NEIL E HARTIGAN and ROLAND W. BURRIS, Attorneys General (SALLIE MANLEY and JAMES MAHER III, Assistant Attorneys General, of counsel), for Respondent.

CHIME VICTIMS COMPENSATION ACT—*decedent's* cousin *was* not *"relative"—funeral* expenses not *allowed.* The cousin of the deceased murder victim was not allowed to recover the victim's funeral expenses which were paid by the cousin since, although the Crime Victims Compensation Act entitles a person related to the victim to compensation for funeral expenses incurred by the relative, the Act does not include a cousin within the definition of a relative.

CRIME VICTIMS COMPENSATION ACT—*application by* victim's brother for *funeral expenses* and *request* to *he substituted in cousin's* funeral expense claim *were untimely—cause dismissed.* Despite a stipulation between the brother of the decedent and the decedent's cousin that the brother had reimbursed the cousin for payment of the decedent's funeral expenses, the Court

of Claims denied the brother's application for funeral expenses on jurisdictional grounds because it was untimely filed more than two years after the crime and there were no applicable exceptions to the filing requirements, and the Court further rejected the brother's request to be substituted in the cousin's previously denied claim for funeral expenses, since the motion for substitution was **also** untimely.

OPINION

POCH, J.

This claim arises out of an incident that occurred on June 18, 1986. Shahid Hussain, cousin of the deceased victim, Syed K. Shah, seeks compensation pursuant to the provisions of the Crime Victims Compensation Act, hereafter referred to as the Act. Ill. Rev. Stat. 1985, ch. 70, par. 71 ***et seq.***

This Court has carefully considered the application for benefits submitted on December 8,1986, on the form prescribed by the Attorney General, and an investigatory report of the Attorney General of Illinois which substantiates matters set forth in the application. Based upon these documents and other evidence submitted to the Court, the Court finds:

**1.** That Syed K. Shah, age 28, was a victim of a violent crime as defined in section 72(c) of the Act, to wit, murder (Ill. Rev. Stat. 1985, ch. **38,** par. 9—1).

**2.** That on June 18, 1986, the victim was stabbed by an offender who was allegedly known to him. The incident occurred on the street located at 1109 West Granville, Chicago, Illinois. Police investigation revealed that the victim and the alleged offender were in a tavern when they became involved in a verbal dispute. After this dispute, the alleged offender left the tavern. When the victim left the tavern a short time later, the alleged offender attacked him with a knife, stabbing him repeat-

edly. The victim was taken to Louis Weiss Memorial Hospital where he expired. The alleged offender has been apprehended and charged with murder. Criminal proceedings against him are currently pending.

**3.** That the Claimant seeks compensation under the Act for funeral expenses only. The Claimant was not dependent upon the victim for support.

**4.** That funeral and burial expenses were incurred as a result of the victim's death in the amount of **$2,532.**

5. That according to section 80.1(c) of the Act, a person related to the victim is eligible for compensation for funeral expenses for the victim provided that such expenses were paid by him.

6. That pursuant to section 72(f), a relative is defined as a spouse, parent, grandparent, stepfather, stepmother, child, grandchild, brother, brother-in-law, sister, sister-in-law, half-brother, half-sister, spouse's parent, nephew, niece, uncle or aunt.

7. That the Claimant, Shahid Hussain, is the cousin of the deceased victim, Syed K. Shah. Therefore, the Claimant does not meet the definition of a relative under section 72(f) of the Act and is not eligible for compensation pursuant to section 80.1(c) of the Act.

8. That the Claimant has not met a required condition precedent for compensation under the Act.

It is hereby ordered that this claim be, and is hereby, denied.

OKDEK

**FREDERICK,** J.

This cause coming on for hearing on the stipulation

of the Claimant, Shahid Hussain, and the Respondent, and the Claimant, Syed M. Shah, in cause No. 89-CV-0139, and the Court having reviewed the stipulation, and the Court being fully advised in the premises, the Court finds:

1. That Claimant, Syed M. Shah, is the brother of the decedent.

2. That Claimant, Shahid Hussain, is the cousin of the decedent.

3. That the victim, Syed K. Shah, was murdered on June 18,1986.

4. That Claimant, Shahid Hussain, originally filed his application pursuant to the Crime Victims Compensation Act on December 8,1986.

5. The claim of Shahid Hussain was denied by the Court on February 24, 1987, on the grounds that Mr. Hussain was not a relative of the victim within the meaning of the Act and therefore not eligible for compensation.

6. Claimant, Syed M. Shah, filed his application for the same funeral expenses on August 5,1988.

7. The claim of Syed M. Shah was denied by the Court on jurisdictional grounds in that the crime occurred more than 18 months prior to the filing of the application.

8. That the parties are requesting that Claimant, Syed M. Shah, be substituted for Claimant, Shahid Hussain, in cause No. 87-CV-0653 so that he can recover. It is stipulated that Mr. Hussain has been reimbursed by Mr. Shah for the funeral costs and Mr. Hussain assigns his rights to Mr. Shah.

9. The Court of Claims is not bound by stipulations.

*Schroeder v. State* (1984), 36 Ill. Ct. Cl. 3; *Goodwill v. State* (1982), 35 Ill. Ct. Cl. 303.

10. Claimant Syed Shah's claim was filed more than two years after the crime and there is before us no evidence of disability or other possible legal exception to the filing requirements. *Schenck v. State* (1991), 43 Ill. Ct. Cl. 437.

11. That the parties seek the Court to substitute Mr. Shah for Mr. Hussain in the case that was denied on February 24, 1987.

12. That even liberally construing Claimant Shah's application of August 5, 1988, as a motion to substitute for Mr. Hussain, such motion was not timely.

13, To make an award to Mr. Shah would be to find jurisdiction where the claim is barred.

Therefore, it is ordered:

A. That the stipulation of the parties filed March 30, 1990, is rejected.

B. That the cause is dismissed and stricken.

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(No. 88-CV-0044—Claimant awarded $2,000.)

*In re* APPLICATION OF LILLIE BARBARA BROWN

*Opinion filed May 23, 1988.*

*Opinion filed November 6, 1992.*

LILLIE BARBARA BROWN, *pro se*, for Claimant.

NEIL F. HARTIGAN and ROLAND W. BURRIS, Attorneys General (JAMES A. TYSON, JR., STEVE SCHMALL and JAMES MAHER III, Assistant Attorneys General, of counsel), for Respondent.

CHIME VICTIMS COMPENSATION ACT—*manner in which compensation for loss of support is calculated.* Section 72(h) of the Crime Victims Compensation Act provides that loss of support shall be determined on the basis of the victim's average net monthly earnings for the six months immediately preceding the date of the injury or $1,000 per month, whichever is less.

SAME—*victim of violent crime—funeral expenses grunted—spouse failed to substantiate loss of support claim.* In a claim for funeral expenses and loss of support by a woman whose husband died a victim of violent crime, the $2,000 maximum funeral expense award was granted, but the loss of support claim was denied based on the woman's failure to produce tax returns or other documentation to substantiate the victim's net earnings during the six months preceding his death.

## OPINION

POCH, J.

This claim arises out of an incident that occurred on October 17, 1986. Lillie Barbara Brown, wife of the deceased victim, Lee E. Brown, seeks compensation pursuant to the provisions of the Crime Victims Compensation Act, hereafter referred to as the Act. Ill. Rev. Stat. 1985, ch. 70, par. 71 *et seq.*

This Court has carefully considered the application for benefits submitted on July 14, 1987, on the form prescribed by the Attorney General, and an investigatory report of the Attorney General of Illinois which substantiates matters set forth in the application. Based upon these documents and other evidence submitted to the Court, the Court finds:

1. That the Claimant's deceased husband, Lee E. Brown, age 54, was a victim of a violent crime as defined in section 72(c) of the Act, to wit, murder (Ill. Rev. Stat. 1985, ch. 38, par. 9—1).

2. That on October 17, 1986, the victim was stabbed several times, allegedly by his son. The incident occurred in a store located at 1705 West 79th Street, Chicago, Illinois. Police investigation revealed that during an argument between them, the alleged offender obtained a pair of scissors and stabbed the victim repeatedly. The victim was pronounced dead at the scene. The alleged offender has been apprehended and charged with murder. The criminal proceedings against him are currently pending.

**3.** That the Claimant seeks compensation for funeral expenses and for loss of support for herself.

4. That section 72(h) of the Act states that loss of support shall be determined on the basis of the victim's average net monthly earnings for the six months immediately preceding the date of the injury or on $750 per month, whichever is less.

5. That the Claimant alleges that the victim was self-employed as a hosiery seller prior to the incident. However, the Claimant has not submitted any documentation to substantiate the victim's earnings during the six months prior to the crime. Therefore, the Claimant has not met a required condition precedent for compensation for loss of support under the **Act.**

6. That the Claimant incurred funeral and burial expenses **as** a result of the victim's death in the amount of **$4,622.** Pursuant to section 72(h) of the Act, funeral and burial expenses are compensable to a maximum amount of $2,000.

7. That pursuant to section 80.1(e) of the Act, this Court must deduct from all claims the amount of benefits, payments or awards payable under the Workers' Compensation Act, Dramshop Act, Federal Medicare, State Public

Aid, Federal Social Security Administration burial benefits, Veterans Administration burial benefits, health insurance, or from any other source, except annuities, pension plans, Federal Social Security payments payable to dependents of the victim and the net proceeds of the first $25,000 of life insurance that would inure to the benefit of the applicant.

8. That the Claimant has received no reimbursements as a result of the victim's death that can be counted as applicable deductions.

9. That the Claimant is entitled to an award based on the following:

Compensable Funeral Expenses $2,000

It is hereby ordered that the sum of $2,000 be and is hereby awarded to Lillie Barbara Brown, wife of Lee E. Brown, an innocent victim of a violent crime.

It is further ordered that the claim for loss of support be, and is hereby denied.

OPINION

FREDERICK, J.

Claimant, Lillie Brown, brings this action pursuant to the Illinois Crime Victims Compensation Act (Ill. Rev. Stat. 1985, ch. 70, par. 72 ***et*** *seq.*) to recover for loss of support as a result of the death of her husband, Lee Brown, on October 17, 1986.

On May 23, 1988, this Court originally found that said Lee Brown was the victim of a violent crime as defined in section 72(c) of the Act, to-wit, murder (Ill. Rev. Stat. 1985, ch. 38, par. 9—1). This Court awarded Claimant $2,000 for funeral expenses but denied her claim for loss of support for failure to substantiate the loss

as required by sections 77(b) and 78 of the Act. Claimant requested a hearing on her claim for loss of support and the case was tried before Commissioner Kane who has dutifully filed his report.

Section 72(a) of the Act provides that an applicant is a person who was a dependent of the deceased victim of a crime of violence for her support at the time of death of that victim. Section 72(h) of the Act further provides that the loss of support shall be determined on the basis of the victim's average net monthly earnings for the six months immediately preceding the date of injury or $1,000 per month, whichever is less. The Act and this Court's prior decisions require that the Claimant produce material which substantiates both, that she was a dependent upon the victim for support and that indicates what the victim's net earnings were in the six-month period prior to his death.

The Claimant's evidence consists of her testimony and of a stack of papers and order forms. Claimant testified that the decedent was self-employed for several years prior to his death as a distributor of hosiery. The decedent's business was called Brenbar Hosiery and Beauty Supply. The invoices and other papers introduced by Claimant were introduced to show that decedent sold hosiery to stores. Claimant was specifically asked, "Can you tell us how much your husband made on average for a month in the six months prior to his death?" Claimant responded, "I can't give you * * * I can, you know, give you a number from figuring the invoices. I haven't done that." Claimant did not have a figure for the Court as to what she believed was the loss of support. The closest she came to an answer was that she believed that one time her husband had told her he made fifty cents on each pair of pantyhose he sold. Claimant had not figured out how many pairs of pantyhose the decedent sold each month.

The Court has meticulously reviewed the letters and order forms provided by Claimant. Many of the order forms are undated or are for a time not within the six months prior to his death or are unsigned. Those signed documents relating to the proper six-month period are also not helpful in that, while they may relate to orders, they fail to answer the crucial question before the Court, namely: what did he earn? The documentation provided by Claimant fails to establish decedent's actual income or profits based on those sales.

The Attorney General of Illinois has taken the position that a Federal income tax return which covers the six-month period prior to the victim's death is an essential document since it serves to document which persons were dependent upon the victim at the time of death as well as the net earnings of the victim in the relevant six-month period. On February 28, 1987, the Attorney General's Office advised the Claimant in writing that they would need a copy of the victim's Federal income tax return for either 1985 or 1986 in order to recommend an award. The Claimant has never provided the Court or the Attorney General with relevant Federal tax returns, State tax returns, bank records, or any other documents which adequately reflect the net earnings of the victim for the relevant six-month period. Claimant testified that the victim took care of all the income taxes but she did not know whether or not he filed returns. Claimant had on one occasion asked the Internal Revenue Service for the 1985 and 1986 tax returns but they could not find such a return. She made no other attempts to secure tax returns.

## The Law

To prevail, Claimant must prove by a preponderance of the evidence that she sustained a compensable loss. *In*

*re Application of Goff* (1989), **41** Ill. Ct. Cl. 320; *In re Application of Thanasouras* (1984), 36 Ill. Ct. C1.456.

In *Thanasouras,* the claimant was unable to produce any witness or documentary evidence other than his own testimony to show that his father had any earnings upon which loss of support could be based In addition, the claimant offered only his own unsubstantiated testimony to show that he received actual support from the victim, The Court found that claimant had failed to prove by a preponderance of the evidence that he incurred a compensable loss under the Act and denied the claim. The burden of proof is on the claimant to prove the loss of support by a preponderance of the evidence. There must be evidence of the amount of money that the victim earned during the six-month period prior to his death to serve **as** a **basis** for determining the amount of support lost. *(In re Application of DeBartolo* (1984), 36 Ill. Ct. Cl. 442.) From the evidence produced by Claimant, this Court cannot say that it is more probably true than not true that the victim had earnings during the six-month period preceding his death and that from those earnings he contributed a significant amount per month toward the support of Claimant. While this finding may seem harsh, it is the correct finding based on the evidence before the Court. While we may have sympathy for the Claimant, her evidence falls far below the standard by which we must decide these cases. Since the Claimant has proven no loss, we must deny the claim. *(In re Application of Coreas* (1987), 39 Ill. Ct. Cl. 319.) While a Federal tax return is not absolutely necessary, it would be the better evidence. **A** claimant, to prevail, must present a tax return or some alternative evidence which proves actual earnings.

The Court of Claims is not a court of general juris-

diction. The cases show consistently that we have no authority to allow claims based on *quantum meruit,* that estoppel is no defense, that we are not a court of equity, and that we cannot allow claims based on the equities. *National Railroad Passenger Corp. v. State* (1983), 36 Ill. Ct. Cl. 265.

The Court cannot award damages on the basis of conjecture. *(In re Application of Lopez* (1987), 39 Ill. Ct. Cl. 315.) The general rule in Illinois is that a party seeking damages has the burden of establishing a reasonable basis for determining the money value of the injury and with a reasonable degree of certainty. On the present state of evidence, we are unable to calculate damages in a reasonable manner without conjecture. *(In re Application of Reges* (1979), 35 Ill. Ct. Cl. **498.) In** deciding our cases, we must decide them within the authority granted to us regardless of any harshness involved. Were we authorized to consider equities, our holdings might be different in some cases but it is beyond our authority to do so. The legislature has limited us in that regard. *National Railroad Passenger Corp. v. State* (1983), 36 Ill. Ct. C1.265.

For the foregoing reason that Claimant has failed to prove a loss of support by a preponderance of the evidence, we hereby deny this claim.

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(No. 88-CV-0070—Claim denied.)

***In re* APPLICATION OF HELEN L. GEORGE**

*Orderfiled* ***August*** *19,1988.*

*Orderfiled* ***March*** *4,1993.*

HELEN L. GEORGE, *pro se,* for Claimant.

NEIL F. HARTIGAN and KOLAND W. BURRIS, Attorneys General (JAMES A. TYSON, JR., and JAMES MAHER III, Assistant Attorneys General, of counsel), for Kespondent.

CRIME VICTIMS COMPENSATION *ACT—recovery* ***under*** *Act is secondary source of compensation.* Compensation under the Crime Victims Compensation Act is a secondary source of compensation and the applicant must show that she has exhausted the benefits reasonably available under governmental or medical or health insurance programs.

SAM*E—Victim injured when lifeguard chair was overturned—failure to exhaust remedies or prove earnings—claim denied.* Where the Claimant, who was injured when a man pushed over her lifeguard chair, sought compensation for **loss** of earnings and medical expenses, her claim was denied, since she did not submit sufficient documentation to substantiate her net earnings for the **six** months preceding the date of her injury and, with respect to her request for medical and hospital expenses, she failed to exhaust the remedies reasonably available to her through Public Aid.

## ORDER

POCH, J.

This claim arises out of an incident that occurred on June **23,** 1985. Helen L. George, Claimant, seeks compensation pursuant to the provisions of the Crime Victims Compensation Act, hereafter referred to as the Act. Ill. Rev. Stat. 1979, ch. 70, par. 71 ***et*** *seq.*

This Court has carefully considered the application for benefits submitted on July 17, 1987, on the form prescribed by the Attorney General, and an investigatory report of the Attorney General of Illinois which substantiates matters set forth in the application. Based upon these documents and other evidence submitted to the Court, the Court finds:

**1.** That the Claimant, Helen L. George, age 26, was a victim of a violent crime as defined in section 72(c) of the Act, to wit, battery (Ill. Rev. Stat. 1979, ch. **38,** par. 12—3).

2. That on June 23, 1985, the Claimant was injured when the alleged offender pushed over the lifeguard's chair in which she was sitting. The incident occurred at a beach located near 1600 North Lake Shore Drive, Chicago, Illinois. Police investigation revealed that while the victim and a companion were sitting in the lifeguard's chair, the alleged offender pushed it over for no apparent reason, causing the Claimant to injure her back. The Claimant was transported to Augustana Hospital for treatment of her injuries. The alleged offender was apprehended and charged with battery, However, he later failed to appear in court and there is currently an outstanding warrant for his arrest.

3. That the Claimant seeks compensation for medical/hospital expenses and loss of earnings.

**4.** That section 72(h) of the Act states that loss of earnings shall be determined on the basis of the victim's average net monthly earnings for the six months immediately preceding the date of the injury or on $750 per month, whichever is less.

5. That the Claimant has not submitted sufficient documentation to substantiate the amount of her net earnings for the six months immediately preceding the date of her injury, Therefore, the Claimant is not eligible for compensation for loss of earnings under the Act.

6. That the Claimant submitted medical/hospital bills in the amount of $1,995.93, none of which was paid by insurance, leaving a balance of $1,995.93. To date, the Claimant has paid $60 towards this balance.

7. That pursuant to section 80.1(e) of the Act, this Court must deduct $200 from all claims (except in the case of an applicant 65 years of age or older), and the

amount of benefits, payments or awards payable under the Workers' Compensation Act, Dramshop Act, Federal Medicare, State Public Aid, Federal Social Security Administration burial benefits, Veterans Administration burial benefits, health insurance, or from any other source, except annuities, pension plans, Federal Social Security payments payable to dependents of the victim and the net proceeds of the first $25,000 of life insurance that would inure to the benefit of the applicant.

8. That section 80.1(g) of the Act states that compensation under this Act is a secondary source of compensation and the applicant must show that she has exhausted the benefits reasonably available under governmental or medical or health insurance programs, including, but not limited to Workers' Compensation, the Federal Medicare program, the State Public Aid program, Social Security Administration burial benefits, Veterans Administration burial benefits and health insurance.

9. That the Claimant filed an application for medical assistance with the Illinois Department of Public Aid on June 26, 1985. This application was denied on July 29, 1985, due to the Claimant's failure to keep appointments with the Department of Public Aid. Therefore, her eligibility for assistance could not be determined and the application was denied. On September 26, 1985, the Claimant filed a written notice with the Department of Public Aid appealing the denial of her medical assistance application. On November 25, 1985, the Department of Public Aid reaffirmed its initial decision in denying the Claimant's application for medical assistance.

10. That by reason of the Claimant's failure to exhaust the remedies reasonably available to her through

public aid, the Claimant has not met a required condition precedent for compensation for medical/hospital expenses under the Act.

11. That this claim does not meet required conditions precedent for compensation under the Act.

It is hereby ordered that this claim be, and is hereby, denied.

ORDER

PATCHETT, J.

On June 23,1985, the Claimant was injured when an alleged offender pushed over the lifeguard's chair in which she was sitting. The incident occurred at a beach located near 1600 North Lake Shore Drive, Chicago, Illinois. A police investigation revealed that while the victim and a companion were sitting in the lifeguards chair, the alleged offender pushed it over for no apparent reason, causing the Claimant to injure her back. The Claimant was transported to Augustana Hospital for treatment of her injuries. The offender failed to appear in court and there is currently an outstanding warrant for his arrest.

On July 17, 1987, the Claimant filed a claim under the Crime Victims Compensation Act seeking medical and hospital expenses and loss of earnings.

On August 19, 1988, the Court denied the claim citing the fact that the Claimant did not exhaust the benefits reasonably available under governmental or medical or health insurance programs, including, but not limited to, Workers' Compensation, the Federal Medicare program, the State Public Aid program, Social Security Administration program, Veterans Administration and health insurance.

The Claimant did file an application for medical assistance with the Illinois Department of Public Aid on June 26, 1985. This application was denied on July 29, 1985, due to the Claimant's failure to keep appointments with the Department of Public Aid. The Department was unable to determine her eligibility for assistance and the application was denied. On September 26, 1985, the Claimant filed a written notice with the Department of Public Aid appealing the denial of her medical assistance application.

On November 25, 1985, a hearing was held by the Department of Public Aid. The Claimant appeared at the hearing, with counsel, and testified that she did make application for benefits to the Department and was refused for failure to attend an interview for which she said she did not receive notice. Following the hearing, the Department of Public Aid reaffirmed its initial decision in denying the Claimant's application for medical assistance.

On August 29, 1988, the Claimant requested an opportunity to appeal the Court of Claims decision. On July 20, 1990, a hearing was held before Commissioner Michael E. Fryzel.

At the hearing, the Claimant did not provide any testimony or evidence showing additional attempts to secure public aid or any other type of available benefits. The claim still does not meet required conditions precedent for compensation under the Act by reason of the Claimant's failure to exhaust the remedies available to her. See *In re Application of Goff* (1986, 1989), **41** Ill. Ct. Cl. 320; *In re Application of Hamilton* (1983), 35 Ill. Ct. Cl. 1023; *In re Application of Dickey* (1981), 35 Ill. Ct. Cl. 514.

The Court has not been presented with any evidence

to cause alteration of the previous order. It is hereby ordered that the decision of August 19, 1988, is affirmed and that the claim is denied.

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(No. 89-CV-0017—Claimant awarded $9,801.50.)

*In re* APPLICATION OF **MARVIN LEWIS III**

*Order filed January* 30, 1989
*Opinion filed October 21,* 1991.
*Order filed July 10, 1992.*

DANIEL NAGLE, for Claimant.

**NEIL** F. HARTIGAN and ROLAND W. BURRIS, Attorneys General (RICHARD J. KRAWKOWSKI and CHARLES A. DAVIS, JR., Assistant Attorneys General, of counsel), for Respondent.

CRIME VICTIMS COMPENSATION ACT—violent *crime—victim cooperated with law enforcement officials—award granted pursuant* ***to*** *stipulation.* Although the Court of Claims originally denied a victim's request for compensation for injuries received in a stahbing incident based upon the victim's alleged failure to cooperate with police, it was subsequently determined that the victim, who was heavily sedated and hemorrhaging when police interviewed him, had cooperated with law enforcement officials to the best of his ability under the circumstances, and he was awarded compensation **in** the amount of $9,801.50 pursuant to the parties' stipulation.

## ORDER

BURKE, J.

This claim arises out of an incident that occurred on January 16, 1988. Marvin Lewis III, Claimant, seeks compensation pursuant to the provisions of the Crime Victims Compensation Act, hereafter referred to as the Act. Ill. Rev. Stat. 1985, ch. 70, par. 71 ***et seq.***

This Court has carefully considered the application for benefits submitted on July 6, 1988, on the form prescribed by the Attorney General, and an investigatory report of the Attorney General of Illinois which substantiates matters set forth in the application. Based upon these documents and other evidence submitted to the Court, the Court finds:

1. That on January 16, 1988, the Claimant was stabbed, allegedly by an unknown offender. The incident occurred at the Claimant's residence, located at 5722 South Maryland, Chicago, Illinois. Police investigation revealed that the Claimant's account of the incident and his description of the alleged offender has varied during interviews with the investigating officers. As a result of the Claimant's failure to cooperate fully with the Chicago Police Department, their investigation was suspended.

2. That sections 76.1(b) and (c) of the Act state that a person is entitled to compensation under the Act if the appropriate law enforcement officials were notified of the perpetration of the crime and the applicant has cooperated fully with law enforcement officials in the apprehension and prosecution of the assailant.

3. That it appears from the police report that the Claimant declined to cooperate fully with the law enforcement officials in the apprehension and prosecution of the assailant, in that his account of the incident and his description of the alleged offender varied during interviews with the investigating officers. As a result, the Chicago Police Department suspended their investigation.

4. That by reason of the Claimant's refusal to fully cooperate with law enforcement officials in the apprehension and prosecution of the assailant as required by the Act, he is not eligible for compensation thereunder.

It is hereby ordered that this claim be, and is hereby denied.

OPINION

**BURKE,** J.

On January 30, 1989, this Court issued an order denying Marvin Lewis' request for compensation pursuant to the provisions of the Crime Victims Compensation Act, hereinafter referred to as the Act. (Ill. Rev. Stat. 1987, ch. **70,** par. **71** ***et seq.***) In the January **30,** 1989, order, this Court, in summary, stated that no compensation would be granted to Mr. Lewis because he failed to cooperate with law enforcement authorities. During the investigation of this matter by the Chicago Police Department, Claimant provided to the police contradictory descriptions of the assailant who stabbed him.

On July **14,** 1989, the matter came before a commissioner for hearing. Mr. Lewis appeared with his counsel, Daniel Nagle, and the Illinois Attorney General through Assistant Attorneys General Daniel Brennan and Richard Linden. Mr. Lewis presented evidence that he did fully cooperate with the law enforcement officers in their attempt to ascertain the identity of the individual who stabbed him approximately eight times in the course of robbing him. After being stabbed, Claimant was taken to a hospital emergency room and several surgeries were performed on various parts of his body, including abdominal surgery and the insertion of a tube to alleviate the problem caused by the collapse of his right lung. As a result of the surgeries, Claimant was heavily sedated. After he had undergone several extensive surgeries and while he was sedated, a police officer attempted to talk to him. The interview of Claimant under the circumstances

did not yield highly probative evidence. In addition, Mr. Lewis did not know the identity of his attacker, although he attempted to be helpful. In addition, the evidence indicated that he was interviewed by law enforcement officers at his apartment while he was hemorrhaging. The police never contacted Mr. Lewis again after the last interview at the hospital.

The Respondent produced no contradictory evidence except a conclusory hearsay statement from a Chicago police officer through an investigator in the crime victims section of the Attorney General's Office. The hearsay statement that the Claimant was uncooperative with the police gave no basis for its conclusion and the investigator stated that the Claimant was completely cooperative with her.

Based upon the evidence elicited at the hearing of this matter, Claimant did cooperate with law enforcement authorities to the best of his ability under the circumstances and he should be compensated for the injuries he suffered as a result of the stabbing.

Wherefore, it is hereby ordered:

1) That the Claimant be awarded just compensation under the Crime Victims Compensation Act.

2) That Claimant is given 30 days from the date of entry of this order to submit to Respondent proof of medical expenses and loss of earnings.

OKDER

**BURKE,** J.

This cause coming to be heard upon the Court's own motion, it is hereby found that the parties have entered into a stipulation whereby the Attorney General's Office

has recommended that the sum of $9,801.50 be paid to Claimant, Marvin Lewis III, the innocent victim of a violent crime.

Wherefore, it is hereby ordered that;

1) The sum of $9,801.50 be made payable to the Claimant, Marvin Lewis III.

2) This case be closed.

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(No. 89-CV-0139—Cause dismissed.)

*In re* PETITION OF SYED MUQEEMULLAH SHAH

*order filed September 29, 1988.*

*Order filed April 6, 1993.*

EDWARD R. DAVIS, for Claimant.

ROLAND W. BURRIS, Attorney General (JAMES MAHER III, Assistant Attorney General, of counsel), for Respondent.

CRIME VICTIMS COMPENSATION ACT—*application by victim's brother for funeral expenses and request to be substituted in cousin's funeral expense claim were untimely—cause dismissed.* Despite a stipulation between the brother of the decedent and the decedent's cousin that the brother had reimbursed the cousin for payment of the decedent's funeral expenses, the Court of Claims denied the brother's application for funeral expenses on jurisdictional grounds because it was untimely filed more than two years after the crime and there were no applicable exceptions to the filing requirements, and the Court further rejected the brother's request to be substituted in the cousin's previously denied claim for funeral expenses, since the motion for substitution was also untimely.

## ORDER

PATCHETT, J.

This cause coming on to be heard upon the **petition**

of the applicant for an extension of time to file necessary documents in the submission of application for benefits under the Crime Victims Compensation Act;

Based upon the information contained in said petition and by the Crime Victims Compensation Act, we find that the crime in question occurred more than **18** months before the filing of the application, and as the Crime Victims Compensation Act requires filing of notice within six months, which can be extended for one year on good cause, we find that we are unable to extend the filing deadline under the law;

Wherefore, it is hereby ordered that said petition be denied.

OHDER

**FREDERICK,** J

This cause coming on for hearing on the stipulation of the Claimant, Syed M. Shah, and the Respondent, and the Claimant, Shahid Hussain, in cause No. 87-CV-0653, and the Court having reviewed the stipulation, and the Court being fully advised in the premises,

Wherefore, the Court finds:

**1.** That Claimant, Syed M. Shah, is the brother of the decedent.

2. That Claimant, Shahid Hussain, is the cousin of the decedent.

***3.*** That the victim, Syed K. Shah, was murdered on June 18,1986.

**4.** That Claimant, Shahid Hussain, originally filed his application pursuant to the Crime Victims Compensation Act on December **8,1986.**

**5.** The claim of Shahid Hussain was denied by the Court on February 24, 1987, on the grounds that Mr. Hussain was not a relative of the victim within the meaning of the Act and therefore not eligible for compensation.

6. Claimant, Syed M. Shah, filed his application for the same funeral expenses on August 5,1988.

7. The claim of Syed M. Shah was denied by the Court on jurisdictional grounds in that the crime occurred more than 18 months prior to the filing of the application.

8. That the parties are requesting that Claimant, Syed M. Shah, be substituted for Claimant, Shahid Hussain, in cause No. 87-CV-0653 so that he can recover. It is stipulated that Mr. Hussain has been reimbursed by Mr. Shah for the funeral costs and Mr. Hussain assigns his rights to Mr. Shah.

9. The Court of Claims is not bound by stipulations. ***Schroeder v. State*** (1984), 36 Ill. Ct. Cl. 3; ***Goodwill v. State*** (1982), ***35*** Ill. Ct. Cl. 303.

10. Claimant Syed Shah's claim was filed more than two years after the crime and there is before us no evidence of disability or other possible legal exception to the filing requirements. ***Schenck v. State*** (1991), 43 Ill. Ct. Cl. 437.

11. That the parties seek the Court to substitute Mr. Shah for Mr. Hussain in the case that was denied on February 24,1987.

12. That even liberally construing Claimant Shah's application of August ***5,*** 1988, as a motion to substitute for Mr. Hussain, such motion was not timely.

**13.** To make an award to Mr. Shah would be to find jurisdiction where the claim is barred.

Therefore, it is ordered:

**A.** That the stipulation of the parties filed March 30, 1990, is rejected.

B. That the cause is dismissed and stricken.

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(No. 88-CV-0348—Claimant Roger Cook awarded $6,600; Methodist Hospital of Chicago awarded $13,481.30; Claimant Roger Cook and Kirit R. Joshi, M.D., awarded $600.)

***In re* APPLICATION OF ROGER COOK**

*Opinion filed May 3,* 1989

***Order filed*** *February* 26, 1990.

*Opinion filed October 20, 1992.*

ROGER COOK, *pro* se, for Claimant.

RICHARD F. PLACHTA, for Methodist Hospital.

NEIL F. HARTIGAN and ROLAND W. BURRIS, Attorneys General (JAMES A. TYSON, JR., JAMES MAHER III, and ANDREW LEVINE, Assistant Attorneys General, of counsel), for Respondent.

CRIME VICTIMS COMPENSATION *ACT—claimant awarded compensation for loss of earnings and medical expenses—hospital's motion to be substituted as payee granted.* Where the Claimant stabbing victim was originally awarded compensation for loss of earnings, and was made co-payee of awards for hospital and other medical expenses toward which he had paid nothing, upon the Claimant's subsequent lack of communication and cooperation with the Court, the Attorney General, and medical providers, the Court granted the hospital's motion to be substituted as payee and made the award for hospital expenses payable directly to the hospital, but the Court deducted from the hospital award the amount it found would have been reimbursable from insurance.

OPINION

BURKE, J.

This claim arises out of an incident that occurred on May 28, 1988. Roger Cook, Claimant, seeks compensation pursuant to the provisions of the Crime Victims Compensation Act, hereafter referred to as the Act. Ill. Rev. Stat. 1987, ch. 70, par. 71 *et seq.*

This Court has carefully considered the application for benefits submitted on October 9, 1988, on the form prescribed by the Attorney General, and an investigatory report of the Attorney General of Illinois which substantiates matters set forth in the application. Based upon these documents and other evidence submitted to the Court, the Court finds:

1. That the Claimant, Roger Cook, age 33, was a victim of a violent crime as defined in section 72(c) of the Act, to wit, aggravated battery (Ill. Rev. Stat. 1987, ch. 38, par. 12—4).

2. That on May 28,1988, the Claimant was stabbed, allegedly by an offender who was known to him. The incident occurred at 4701 North Clark Street, Chicago, Illinois. Police investigation revealed that after the Claimant left a tavern, the alleged offender approached him from behind, produced a knife and stabbed the Claimant several times. The Claimant was taken to Bethany Methodist Hospital for treatment of his injuries. The alleged offender has been apprehended and charged with aggravated battery. The criminal proceedings against him are currently pending.

3. That the Claimant seeks compensation for loss of earnings and medical/hospital expenses.

4. That the Claimant has submitted medical/hospital

expenses in the amount of $21,025.55, none of which was paid by insurance, leaving a balance of $21,025.55. To date, the Claimant has paid nothing towards this balance.

5. That section 72(h) of the Act states that loss of earnings shall be determined on the basis of the victim's average net monthly earnings for the six months immediately preceding the date of the injury or on $1,000 per month, whichever is less.

6. That the Claimant was employed by Morrison-Knudsen Company, Inc., prior to the injury and his average monthly earnings were $1,080.30. Claimant was disabled and unable to work from May 28, 1988, to January 16,1989, for a period of 7 months and 12 working days.

7. That based on $1,000 per month, the maximum compensation for loss of earnings for 7 months and 12 working days is $7,545.40.

8. That the Claimant has complied with all pertinent provisions of the Act and qualifies for compensation thereunder.

9. That pursuant to section 80.1(e) of the Act, this Court must deduct from all claims the amount of benefits, payments or awards payable under the Workers' Compensation Act, Dramshop Act, Federal Medicare, State Public Aid, Federal Social Security Administration burial benefits, Veterans Administration burial benefits, health insurance, or from any other source, except annuities, pension plans, Federal Social Security payments payable to dependents of the victim and the net proceeds of the first $25,000 of life insurance that would inure to the benefit of the applicant.

10. That the Claimant has received no reimbursements that can be counted as an applicable deduction.

11. That the Claimant has indicated that a civil action may be filed as a result of the incident. The Claimant, by informing the Attorney General's Office of the possibility of a civil action, has acknowledged his responsibility to further notify the Attorney General of the filing of the civil action and of its final disposition, pursuant to section 87 of the Act.

12. That pursuant to section 88(c) of the Act, the Court may order that all or a portion of an award be paid jointly to the applicant and provider of services. In the instant case, the Court finds this section applicable and orders that joint payment be made.

13. That after making all the applicable deductions under the Act, the pecuniary loss resulting from the Claimant's injuries is in excess of $25,000, the maximum amount allowed in section 80.1(f) of the Act.

14. That the Claimant is entitled to an award in the amount of $25,000 which is prorated as follows:

| | Compensable Amount | % of Loss | Total Award |
|---|---|---|---|
| Compensable Loss of Earnings | $7,545.40 | 26.4% | $6,600.00 |
| Methodist Hospital of Chicago | 20,335.55 | 71.2% | 17,800.00 |
| Kirit R. Joshi, M.D. | 690.00 | 2.4% | 600.00 |
| Total | $28,570.95 | 100.0% | $25,000.00 |

It is hereby ordered that the sum of $6,600 be and is hereby awarded to Roger Cook, an innocent victim of a violent crime.

It is further ordered that the sum of $17,800 be and is hereby awarded to Roger Cook and Methodist Hospital of Chicago.

It is further ordered that the sum of $600 be and is hereby awarded to Roger Cook and Kiiit R. Joshi, M.D.

## ORDER

PATCHETT, J.

This cause comes on to be heard on the motion of Methodist Hospital of Chicago, a co-payee of a portion of a previously granted award herein, and the Court being advised;

On May 3, 1989, an award was made in this claim, a portion of which, $17,800, was made co-payable to the applicant and Methodist Hospital of Chicago. On October 23, 1989, Methodist Hospital of Chicago filed a motion seeking to have the payment made to it directly.

Section 18(a) of the Crime Victims Compensation Act provides that an award is not subject to enforcement, attachment, garnishment, or other process, except that an award is not exempt from the claim of a creditor to the extent that he or she provided products, services, or accommodations, the costs of which are included in the award. Methodist Hospital of Chicago is a creditor who has provided medical services, the costs of which were a portion of the award. Records in the clerks office indicate that the warrant previously issued to the co-payees has not been cashed.

But for certain allegations in the motion by Methodist Hospital of Chicago, the circumstances would suffice for us to order direct payment. In its motion the hospital noted the availability of health insurance coverage for Claimant which would potentially cover at least a portion of the expenses incurred. An applicant does not have an option to collect under the Act or an insurance program. Any health insurance coverage available must be de-

ducted from an award pursuant to section 10.1(e) of the Act, regardless of whether an applicant chooses not to use it. The investigatory report made no mention of available insurance coverage.

It is hereby ordered that the clerks office take necessary steps to stop the payment on the warrant at issue here and, if possible, any of the other warrants issued in payment of the previously made award; it is also ordered that the office of the Attorney General further investigate this matter and that it be assigned to a commissioner for the purpose of conducting a hearing. Methodist Hospital of Chicago is to be given notice of and an opportunity to participate in the hearing.

## OPINION

PATCHETT, J.

This case was initially before the Court on Claimant's application for compensation pursuant to the provisions of the Crime Victims Compensation Act, hereinafter referred to as the Act. (Ill. Rev. Stat. 1989, ch. 70, par. 71 *et seq.*) On May **3,** 1989, the Court, in reliance upon the Attorney General's report, issued an opinion awarding $25,000, which was prorated as follows:

| | | |
|---|---|---|
| a. | $ 6,600.00 | to Roger Cook for loss of earnings: |
| b. | 17,800.00 | to Roger Cook *and* Methodist Hospital; and |
| c. | 600.00 | to Roger Cook and Kirit R. Joshi, M.D. |
| | $25,000.00 | Total Award |

On February 26, 1990, the Court issued an order directing the Clerk of the Court to stop payment on the

$17,800 warrant, directing the Attorney General to further investigate this matter, and assigning this cause to a commissioner. A hearing was conducted by a commissioner on September 20, 1991, without Roger Cook in attendance. Three attempts were macle to notify Roger Cook of proposed pretrials and the hearing. All three notices were returned by the U.S. Postal Service with notations that no forwarding address was available for Cook. Prior to the presentation of this report, a fourth attempt to reach Roger Cook was unsuccessful.

Roger Cook has not filed a notice of current address with the Clerk of the Court. The only witness present at the September 20, 1991, hearing was Richard Plachta from Masters Collectors on behalf of Methodist Hospital of Chicago.

On October 23, 1989, Methodist Hospital of Chicago filed a motion for substitution of payee, seeking to have the $17,800 sum made payable directly to it. A warrant had been issued payable jointly to Claimant and to the hospital. According to the hospital, Roger Cook offered to endorse the warrant on the condition that the hospital agree to refund $3,800 to him. The hospital's bills totalled $20,335.55 and the hospital did not agree to the arrangement. Roger Cook did not endorse the warrant and it was subsequently cancelled.

The hospital stated that Claimant was initially hospitalized on May 28, 1988, and released on June 6, 1988. He was hospitalized again on June 7 and released June 16, 1988. The hospital stated that Roger Cooks health insurance coverage was terminated on May 31, 1988, and he did not provide accident data relating to his hospitalization to his insurance carrier. According to the hospital, Cook gave incorrect third-party insurance billing informa-

tion. Therefore, none of the hospital expenses were paid by insurance. Roger Cooks Crime Victim Compensation application shows that he indicated that no private accident or health plan was available to cover the medical bills.

On January 24, 1991, the hospital filed a notice of hospital lien against Cook's claim. At the hearing, Kichard Plachta stated that he believed the total of all bills owed the hospital from Roger Cook because of treatment of services arising out of the incident is $20,223.00 *(sic)*. The Court previously found, based upon the Attorney General's report, the sum to be $20,335.55.

An employee of the hospital, Delores Smith, appeared at a pretrial on January 22, 1991. The Assistant Attorney General stated that he and Ms. Smith agreed that the sum of $6,854.25 was the amount that would have been paid by insurance. The record does not, other than the representations of the Assistant Attorney General and the facts stated in the hospital's motion, indicate whether insurance coverage was in place and to what extent the policy would cover Cooks medical expenses. There is reference in the hospital's motion and in the comments by the Assistant Attorney General that insurance would have covered only three days, May 28 to May 31, 1988. The Attorney General does not object to the motion.

The Assistant Attorney General stated that the sum of $6,854.25 should be deducted from the $17,800, thereby leaving the sum of $10,945.75due the hospital. At the conclusion of the September 20, 1991, hearing, Mr. Plachta indicated that the hospital would agree to receiving $10,945.75.

Roger Cook has not communicated with the Court, the Clerk of the Court, a commissioner, the Attorney

General or the hospital since the date he attempted to obtain the refund from the hospital from the sums included in the $17,800 warrant.

In light of Claimant's lack of cooperation since the initial opinion of April 4, 1989, the Court could rule that Claimant has failed to substantiate, or otherwise proceed with, his claim and deny the balance of the claim pending. The Claimant may have misrepresented facts, may have decided not to file a claim with an insurance carrier, and may have tried to convince the hospital to compromise its claim against him by sharing some of the proceeds due it. Because Roger Cook chooses not to participate further in the processing of his claim, we will rely upon the representations and recommendations of the Assistant Attorney General and grant the motion to substitute payees.

Further, we rely on the representations of the Assistant Attorney General regarding the sums purported to be potentially reimbursable from insurance. We therefore find that the sum of $6,854.25 is the sum that would have been reimbursable from insurance.

The Court previously determined the total of all compensable expenses was $28,570.95 but prorated the award. In the event $6,854.25 is deducted from $28,570.95, the total of all compensable damages is less than the maximum award permitted by the Act. In this event such deduction is made, there is no need to order a *pro rata* distribution to the hospital.

The Court therefore deducts the sum of $6,854.25 from the total hospital bill of $20,335.55, and therefore awards $13,481.30 directly to the hospital.

(No. 89-CV-1314—Claim denied.)

*In re* APPLICATION OF BEATRICE RODRIGUEZ

*Order filed* ***November 13,*** 1989.

*Opinion filed July* 31,1992.

BEATRICE RODRIGUEZ, *pro se,* for Claimant.

NEIL F. HARTIGAN and ROLAND W. BURRIS, Attorneys General (DANIEL BRENNAN, JR., CHARLES DAVIS, JR., and ANDREW LEVINE, Assistant Attorneys General, of counsel), for Respondent.

CRIME VICTIMS COMPENSATION ACT—*requirement for recovery—injury* resulting from crime perpetrated against the person. In order to recover under the Crime Victims Compensation Act, an applicant must have been injured or potentially injured as a result of a crime perpetrated against that person, or be the parent of a child so injured or potentially injured.

SAME—*daughter* was not sexually *abused—claim* for medical *examination* expenses *denied.* Although the Claimant mother, at the request of an assistant state's Attorney, had her daughter evaluated by medical authorities to determine whether she had been sexually abused by her stepfather, the mother's request to be compensated for the medical bills incurred as a result of those examinations was denied, since the daughter showed no medical signs of sexual abuse and was therefore not considered a "victim" under the Crime Victims Compensation Act so as to entitle the mother to recover.

## ORDER

BURKE, J.

This claim arises out of an incident that was discovered on March 31, 1989. The Claimant, Beatrice Rodriguez, mother of the minor, Lisa Rodriguez, seeks compensation pursuant to the provisions of the Crime Victims Compensation Act, hereafter referred to as the Act. Ill. Rev. Stat. 1987, ch. 70, par. 71 ***et seq.***

This Court has carefully considered the application for benefits submitted on May 22,1989, on the form prescribed by the Attorney General, and an investigatory report of the Attorney General of Illinois which substanti-

ates matters set forth in the application. Based upon these documents and other evidence submitted to the Court, the Court finds:

1. That on March 31, 1989, it was discovered that one of the Claimant's daughters had been sexually abused by the Claimant's husband. The incident occurred at their residence located at 3136 South Emerald, Chicago, Illinois. The offender has been apprehended, prosecuted, and convicted of aggravated criminal sexual abuse. It has been determined that Lisa Rodriguez was not sexually abused by the offender.

2. That in order for a Claimant to be eligible for compensation under the Act, there must be evidence that one of the violent crimes specifically set forth under section 72(c) of the Act occurred.

3. That it has been determined that the minor was not sexually abused by the offender. Therefore, the minor is not a victim of one of the crimes specifically set forth under section 72(c) of the Act as no crime occurred.

4. That this claim does not meet a required condition precedent for compensation under the Act.

It is hereby ordered that this claim be, and is hereby denied.

## OPINION

**SOMMER, J.**

The Claimant, Beatrice Rodriguez, brought this Crime Victims Compensation claim for medical bills incurred as a result of physical examinations and hospital tests that were done on her two children, Lisa and Ruben Rodriguez, Jr.

There is no dispute that Beatrice Rodriguez' husband, Ruben Rodriguez, Sr., had been charged with the sexual abuse of one of Claimant's daughters, Crystal. When that abuse was brought to the attention of the Cook County State's Attorney's Office, an assistant State's Attorney told Ms. Rodriguez to have Lisa and Kuben evaluated by appropriate medical authorities to determine whether either of those children had been sexually abused. Evidently, the prosecution would have utilized that evidence in their criminal prosecution of the defendant, Ruben Rodriguez, Sr. Fortunately, as it turned out, neither of these two children showed any medical signs of sexual abuse and, therefore, there were no additional charges brought against Huben Hodriguez, Sr.

Ms. Rodriguez incurred bills of $150 for each child as a result of these examinations which took place at the behest of the prosecution. There was no evidence presented to contradict the evidence of Ms. Rodriguez, and the scenario is perfectly logical in light of the nature of the criminal justice system. Eventually, Mr. Hodriguez was convicted of a felony and sentenced. Ms. Rodriguez brought this matter after the State's Attorney's Office failed to pay for the examinations.

In order to recover under the Crime Victims Compensation Act, an applicant must have been injured or potentially injured as a result of a crime perpetrated against that person, or be the parent of a child so injured or potentially injured. (Ill. Rev. Stat., ch. 70, par. 72 2(d)7.) As no crime was perpetrated against the children in this claim, there can be no recovery. In other words, Lisa and Kuben Rodriguez, Jr., were not crime victims and their parent cannot recover under the Crime Victims Compensation Act.

(No. 89-CV-1315—Claim denied.)

*In re* APPLICATION OF BEATRICE RODRIGUEZ

*Order filed November 28, 1989.*

*Opinion filed March* 13, 1992.

Opinion *filed July* 31, 1992.

BEATRICE RODRIGUEZ, *pro se,* for Claimant.

NEIL F. HARTIGAN and ROLAND W. BURRIS, Attorneys General (DANIEL BRENNAN, JR., CHARLES DAVIS, JR., and ANDREW LEVINE, Assistant Attorneys General, of counsel), for Respondent.

CRIME VICTIMS COMPENSATION ACT—*requirement* for *recovery—injury resulting from crime* perpetrated against *the person.* In order to recover under the Crime Victims Compensation Act, an applicant must have been injured or potentially injured as a result of a crime perpetrated against that person, or be the parent of a child so injured or potentially injured.

SAME—*son was* ***not sexually*** *abused—claim for* medical examination expenses denied. Although the Claimant mother, at the request of an assistant State's Attorney, had her son evaluated by medical authorities to determine whether he had been sexually abused by his stepfather, the mother's request to be compensated for the medical bills incurred as a result of those examinations was denied, since the son showed no medical signs of sexual abuse and was therefore not considered a "victim" under the Crime Victims Compensation Act so as to entitle the mother to recover.

## ORDER

**BURKE,** J.

This claim arises out of an incident that was discovered on March 31, 1989. The Claimant, Beatrice Rodriguez, mother of the minor, Ruben Rodriguez, Jr., seeks compensation pursuant to the provisions of the Crime Victims Compensation Act, hereafter referred to as the Act. Ill. Rev. Stat. 1987, ch. 70, par. 71 *et seq.*

This Court has carefully considered the application for benefits submitted on May 22, 1989 on the form prescribed by the Attorney General, and an investigatory

report of the Attorney General of Illinois which substantiates matters set forth in the application. Based upon these documents and other evidence submitted to the Court, the Court finds:

1. That on March 31, 1989, it was discovered that one of the Claimant's daughters had been sexually abused by the Claimant's husband. The incident occurred at their residence located at 3136 South Emerald, Chicago, Illinois. The offender has been apprehended, prosecuted, and convicted of aggravated criminal sexual abuse. It has been determined that Huben Rodriguez, Jr. was not sexually abused by the offender.

2. That in order for a Claimant to be eligible for compensation under the Act, there must be evidence that one of the violent crimes specifically set forth under section 72(c) of the Act occurred.

3. That it has been determined that the minor was not sexually abused by the offender. Therefore, the minor is not a victim of one of the violent crimes specifically set forth under section 72(c) of the Act, as no crime occurred.

4. That this claim does not meet a required condition precedent for compensation under the Act.

It is hereby ordered that this claim be, and is hereby denied.

## OPINION

POCH, J.

This claim arises out of an incident that was claimed to have occurred on March 31, 1989. The Claimant, Beatrice Rodriguez, mother of the minor, Ruben Rodriguez, Jr., seeks compensation pursuant to the provisions of the Crime Victims Compensation Act, hereinafter referred to

as the Act. Ill. Rev. Stat. 1989, ch. 70, par. 71 *et seq.*

The Court had previously denied the claim after reviewing the application for benefits and the investigatory report of the Attorney General. The basis of the denial was that the minor was not sexually abused by his stepfather, Ruben Rodriguez and, therefore, the minor was not a victim of a violent crime **as** defined by section 72(c) of the Act which is a prerequisite for compensation.

The Claimant requested reconsideration of the denial of the claim and the mother was referred to a commissioner of the Court. The evidence showed that Ruben Rodriguez, Sr. had been charged with sexual abuse of Crystal Rodriguez, a sister of Ruben Rodriguez, Jr. At the request of the State's Attorney's Office, the Claimant had her daughters, Crystal and Lisa, and her son, Ruben Rodriguez, Jr., examined by a physician to determine if there was any objective evidence of sexual abuse. Examination of Ruben Rodriguez, Jr. showed no sign of sexual abuse and no charges were brought against Ruben Rodriguez, Sr. relating to Ruben Rodriguez, Jr.

The Claimant incurred bills of $150 for each child. The State's Attorney's Office did not pay those medical bills even though the examinations were conducted at the request of that office.

In order for the Claimant's child to be eligible for compensation under the Act, there must be evidence that the child was a victim of a violent crime as set forth in section 72(c) of the Act. Since this minor child was not sexually abused by his stepfather, the minor is not a victim of a violent crime even if one of the other children of the Claimant was the victim of a violent crime.

The Claimant has not met a required condition

precedent for compensation under the Act. It is recommended that the Claimant submit the medical bills to the office of the Cook County State's Attorney for payment through the victim witness program.

It is hereby ordered that this claim be and the same is hereby denied.

OPINION

SOMMER, J.

The Claimant, Beatrice Rodriguez, brought this Crime Victims Compensation claim for medical bills incurred as a result of physical examinations and hospital tests that were done on her *two* children, Lisa and Ruben Rodriguez, Jr.

There is no dispute that Beatrice Rodriguez' husband, Ruben Rodriguez, Sr., had been charged with the sexual abuse of one of their daughters, Crystal. When that abuse was brought to the attention of the Cook County State's Attorney's Office, an assistant State's Attorney told Ms. Rodriguez to have Lisa and Ruben evaluated by appropriate medical authorities to determine whether either of those children had been sexually abused. Evidently, the prosecution would have utilized that evidence in their criminal prosecution of the defendant, Ruben Rodriguez, Sr. Fortunately, as it turned out, neither of these two children showed any medical signs of sexual abuse and, therefore, there were no additional charges brought against Ruben Rodriguez, Sr.

Ms. Rodriguez incurred bills of $150 for each child as a result of these examinations which took place at the behest of the prosecution. There was no evidence presented to contradict the evidence of Ms. Rodriguez, and the scenario is perfectly logical in light of the nature of

the criminal justice system. Eventually, Mr. Rodriguez was convicted of a felony and sentenced. Ms. Rodriguez brought this matter after the State's Attorney's Office failed to pay for the examinations.

In order to recover under the Crime Victims Compensation Act, an applicant must have been injured or potentially injured as a result of a crime perpetrated against that person, or be the parent of a child so injured or potentially injured. (Ill. Rev. Stat., ch. 70, par. 72 2(d)7.) As no crime was perpetrated against the children in this claim, there can be no recovery In other words, Lisa and Ruben Rodriguez, Jr., were not crime victims and their parent cannot recover under the Crime Victims Compensation Act.

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(No. 90-CV-0271—Claim denied.)

*In re* APPLICATION OF DAVID WATT

*Order filed April 25, 1990.*

*Opinion filed March 23, 1993.*

DAVID WATT, *pro se,* and Legal Assistance Foundation of Chicago (DEVEREUX BOWLY, of counsel), for Claimant.

NEIL F. HARTIGAN and ROLAND W. BURRIS, Attorneys General (JAMES MAHER III, Assistant Attorney General, of counsel), for Respondent.

CRIME VICTIMS COMPENSATION ACT—*Claimant pushed from window—failure to cooperate with police—claim denied.* The Claimant's request for compensation alleging that he was injured after being attacked by several unknown assailants and thrown from an apartment building window was denied based **on** the Claimant's failure to cooperate with police in their investigation where, during interviews immediately following the incident,

the Claimant repeatedly insisted that he had slipped and fallen out of the window despite police expressing skepticism as to his statement.

## ORDER

BURKE, J.

This claim arises out of an incident that occurred on January 15, 1989. David Watt, Claimant, seeks compensation pursuant to the provisions of the Crime Victims Compensation Act, hereafter referred to as the Act. Ill. Rev. Stat. 1987, ch. 70, par. 71 *et seq.*

This Court has carefully considered the application for benefits submitted on August 21, 1989, on the form prescribed by the Attorney General, and an investigatory report of the Attorney General of Illinois which substantiates matters set forth in the application. Based upon these documents and other evidence submitted to the Court, the Court finds:

1. That the Claimant alleges that on January 15, 1989, he was leaving a friend's residence when two unknown offenders attacked him and threw him out a window. The alleged incident occurred in an apartment building at 5501 West Washington, Chicago, Illinois. However, according to a case report provided by the Chicago Police Department, there was no indication that a crime actually occurred. During an interview with the police in the emergency room at Loyola Medical Center, the Claimant repeatedly stated that he slipped and fell out a fourth floor window. For this reason, the Chicago Police Department classified the incident as an accidental injury and closed its investigation.

2. That in order for a claimant to be eligible for compensation under the Act, there must be evidence that one of the violent crimes specifically set forth under sec-

tion 72(c) of the Act occurred.

**3.** That available evidence indicates that the Claimant informed investigating police officers that he slipped and fell from a fourth floor window. Therefore, there is no proof that one of the violent crimes specifically set forth under section 72(c) of the Act occurred.

**4.** That the Claimant has not met a required condition precedent for compensation under the Act.

It is hereby ordered that this claim be, and is hereby, denied.

OPINION

**BURKE,** J.

On January 15, 1989, Claimant was en route to see a friend at the Washington Pine Hotel Apartments located at 5501 West Washington Street. As a former employee of the apartment building, the Claimant knew individuals in the building and was familiar with the physical plant of the building. Claimant walked up the stairwell to the fourth floor and was confronted on the landing by four men. A couple of men grabbed him, threw him into an apartment and beat him. Claimant was robbed and the force of a blow from a piece of wood sent him through a window and he fell to the ground. Claimant did not know any of the individuals involved in the beating and robbery. He was taken to the hospital by ambulance and was unconscious for a period of days.

The Claimant stated that he did not talk to any police officers during the eight-day period he was hospitalized, but it was conceivable that he had conversations he did not remember. *Sgt.* Dennis Porter of the Chicago Police Department who, at the time of the incident, was

an Area 5 violent crimes investigator, stated that he did examine the scene of the incident and proceeded to Loyola Hospital where he and another officer interviewed the Claimant. The Chicago Police Department considered this a major incident because of the nature of the injuries. Sgt. Porter stated that Claimant was conscious, able to speak and made no inappropriate responses. Claimant told him that he had slipped and fallen out the window. Sgt. Porter told Claimant that he did not believe that statement, but the Claimant maintained that he had slipped and fallen out the window and he would not elaborate any further. Sgt. Porter also indicated that this particular building was a known hangout for narcotics dealers and was later raided by police authorities. After Claimant's statement was taken, the matter was classified as an accident and no further investigation was done.

In order to recover under the Crime Victims Compensation Act, the Claimant must prove that he was ready, willing and able to cooperate with the police in the investigation and prosecution of the crime. In the instant case, the Claimant failed to cooperate and his credibility is highly suspect. Immediately after the accident, he claimed to have fallen out the window and at the hearing he testified that some unknown assailants beat and threw him out the window after taking an unknown amount of money from his person. It is clear that Claimant failed to cooperate with the police in the investigation and prosecution of the crime.

Wherefore, it is hereby ordered that the instant claim is denied.

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(No. 90-CV-0405—Claimant awarded $3,000.)

*In re* APPLICATION OF ROSEANER WILLIAMS

*Order filed May* **9,** 1990.

*Opinion filed July 13, 1992.*

ROSEANER WILLIAMS, *pro se,* for Claimant.

NEIL F. HARTIGAN and ROLAND W. BURRIS, Attorneys General (JAMES MAHER III, Assistant Attorney General, of counsel), for Respondent.

CRIME VICTIMS COMPENSATION ACT—victim shot while *playing* Russian *Roulette—funeral* expenses granted ***hut*** *medical* expenses *not allowed.* In a mother's claim for compensation as **a** result of the shooting death of her son, although the claim was originally denied because the Court of Claims found that the victim was accidentally shot while playing Russian Roulette, it was determined upon review that the son was **a** victim of the offense of reckless conduct which is **a** crime of violence under the Crime Victims Compensation Act, and the mother was awarded $3,000 for funeral and burial expenses, but could not recover medical expenses since she had not exhausted benefits available through insurance.

## ORDER

SOMMER, J.

This claim arises out of an incident that occurred on March 10, 1989. Roseaner Williams, mother of the deceased victim, Jimmy Martese Williams, seeks compensation pursuant to the provisions of the Crime Victims Compensation Act, hereafter referred to as the Act. Ill. Rev. Stat. 1987, ch. 70, par. 71 *et seq.*

This Court has carefully considered the application for benefits submitted on September 21, 1989, on the form prescribed by the Attorney General, and an investigatory report of the Attorney General of Illinois which substantiates matters set forth in the application. Based upon these documents and other evidence submitted to the Court, the Court finds:

1. That on March 10, 1989, the victim was shot by an offender who was known to him. The incident occurred in an apartment building at **4823** West Cortez, Chicago, Illinois. Police investigation revealed that the victim began to play Russian Roulette with a loaded handgun in the apartment. When the victim put the gun down, the offender picked it up, not realizing that it was cocked. When the offender began to sit down, the weapon discharged, striking the victim in the head.

2. That section 80.1 of the Act indicates factors used to determine entitlement to compensation. Specifically, section 80.1(d) of the Act states that an award shall be reduced or denied according to the extent to which the victim's acts or conduct provoked or contributed to his injury or death, or to the extent to which any prior criminal conviction or conduct of the victim may have directly or indirectly contributed to the injury or death of the victim.

**3.** That it appears from the investigatory report and the police report that the victim was playing Russian Roulette with a loaded handgun. When the victim placed the gun down, the offender picked it up. The weapon then discharged, striking the victim in the head.

**4.** That the victim's conduct contributed to his death to such an extent as to warrant that the Claimant be denied entitlement to compensation.

***5.*** That in order for a claimant to be eligible for compensation under the Act, there must be evidence that one of the violent crimes specifically set forth under section 72(C) of the Act occurred.

**6.** That the shooting incident which resulted in the victim's death was an accident, not an intentional act.

7. That this claim does not meet required conditions precedent for compensation under the Act.

It is hereby ordered that this claim be, and is hereby denied.

## OPINION

SOMMER, J.

This claim arises out of an incident that occurred on March 10, 1989. Koseaner Williams, mother of the deceased victim, Jimmy Martese Williams, seeks compensation pursuant to the Crime Victims Compensation Act, hereinafter the Act. Ill. Hev. Stat. 19813, ch. 70, par. 71 *et seq.*

On May 9, 1990, this Court issued an order finding that the victim was playing Russian Koulette and denied the claim. This Court found that the shooting was an accident and that the deceased victim's conduct contributed to his death to such an extent as to warrant a denial. The Claimant requested a review of the May 9 order.

Hearings were held on February 5, 1991, and September 20, 1991. The record was left open to enable the Claimant to document her claim.

No person testified who witnessed the incident. The Claimant testified that three persons were present when the shooting took place. The police report indicates that the offender gave two different versions of what occurred. One version suggested he and the victim were playing Kussian Koulette and the second version alleged an unknown assailant. The Claimant was present at the criminal trial in the circuit court when the offender gave a third version, testifylng that he was goofing off with a loaded gun and it discharged into the victim's forehead.

The Claimant produced a certified statement of conviction, stating that Marcus Jerome Sims, the offender, was convicted of the offense of reckless conduct. Ill. Rev. Stat. 1989, ch. **38,** par. 12—5.

Reckless conduct is a crime of violence as defined by the Act, thereby permitting this victim to seek compensation. The Crime Victims Compensation application states that the Claimant is not seeking compensation for medical expenses, but is only seeking funeral and burial expenses in the sum of $3,900. The Claimant was employed at the time of the incident and had medical insurance. Although there were medical expenses incurred in the approximate sum of $2,400, the Claimant did not submit the bills to her medical insurance carrier. The Claimant stated that she received $5,000 in life insurance proceeds.

On April 30, 1992, the Attorney General filed a funeral director report indicating that the Claimant paid $3,745 to A. **A.** Rayner & Sons, funeral director.

It is the finding of this Court that the death of the victim, having been caused by the criminal offense of reckless conduct, entitles the Claimant to compensation pursuant to the Act. The Claimant will not be awarded any sum for hospital expenses because she has not exhausted benefits reasonably available from secondary sources as required by section 10.1(g) of the Act. However, the Claimant will be awarded the maximum amount allowable under the Act for funeral and burial expenses, $3,000. It is therefore ordered that the order of May 9, 1990, is withdrawn and that the Claimant be paid $3,000 for funeral and burial expenses.

(No. 90-CV-0977—Claimantawarded $25,000.)

*In re* APPLICATION OF CATHERINE M. SMITH

***Orderfiled August*** 27,1990

*Orderfiled October 30, 1992.*

CATHERINE M. SMITH, *pro se,* and COONEY & CONWAY, for Claimant.

NEIL F. HARTIGAN and ROLAND W. BURRIS, Attorneys General (JAMES MAHER III, CHARLES A. DAVIS, JR. and ANDREW LEVINE, Assistant Attorneys General, of counsel), for Respondent.

CRIME VICTIMS COMPENSATION ACT—*no* ***retroactive application of amended Act to woman's claim.*** The Crime Victims Compensation Act as amended in 1991was not applicable in a woman's claim stemming from the 1989 shooting death of her husband since, without an express statutory provision stating that an act is to have retroactive effect, it can only be applied prospectively, and the amended Act did not contain such a provision.

SAME—*offender's* ***actions met criteria*** *for* ***violent*** *crime* ***of*** *reckless* ***conduct*** *under* ***prior*** *statute—award* ***granted.*** Where the Claimant's husband was shot while attending a fireworks display and the offender who fired the shot pleaded guilty to the offense of involuntary manslaughter, the fact that involuntary manslaughter was not a specifically enumerated crime of violence under the Crime Victims Compensation Act at the time of the shooting did not bar the Claimant from receiving compensation, since the offender'sacts met the definition of reckless conduct, which was one of the crimes set forth in the Act at the time and was a lesser included offense of involuntary manslaughter.

## ORDER

PATCHETT, J.

This claim arises out of an incident that occurred on July **4,** 1989. Catherine M. Smith, wife of the deceased victim, Thomas A. Smith, seeks compensation pursuant to the provisions of the Crime Victims Compensation Act, hereafter referred to as the Act. Ill. Rev. Stat. 1987, ch. 70, par. 71 ***et seq.***

This Court has carefully considered the application for benefits submitted on January **22,** 1990, on the form

prescribed by the Attorney General, and an investigatory report of the Attorney General of Illinois which substantiates matters set forth in the application. Based upon these documents and other evidence submitted to the Court, the Court finds:

1. That on July 4, 1989, the victim was shot while waiting the commencement of a fireworks display. The incident occurred at Springfield Park, Bloomingdale, Illinois. Police investigation revealed that the victim and his family were sitting in the park, waiting to view the fireworks display. At a private residence a short distance away, the two alleged offenders were practicing shooting at a barrel with a handgun. One of the alleged offenders misfired, striking the victim. The alleged offenders have been apprehended and were charged with involuntary manslaughter by the Du Page County State's Attorney. The criminal proceedings against the two alleged offenders are still pending.

2. That in order for a claimant to be eligible for compensation under the Act, there must be evidence that one of the violent crimes specifically set forth under section 72(c) of the Act occurred.

3. That involuntary manslaughter is not one of the violent crimes specifically set forth under section 72(c) of the Act.

4. That the Claimant has not met a required condition precedent for compensation under the Act.

It is hereby ordered that this claim be, and is hereby denied.

ORDER

PATCHETT, J.

On July 4, 1989, Thomas A. Smith, the Claimant's

husband, was attending a fireworks display at Springfield Park in Bloomingdale, Illinois. Mr. Smith was sitting in the park with his family waiting to view the fireworks. At a home a short distance from Springfield Park, two individuals were shooting a handgun at a barrel. Both were consuming alcohol near the time of the shooting. One of the individuals missed the barrel, and the bullet struck Mr. Smith, The bullet taken from Mr. Smith's chest confirmed beyond all doubt that it came from the same handgun these two individuals were firing.

One of the individuals, Carla Smith, pleaded guilty to the offense of involuntary manslaughter. Another individual, Bob Logsden, pleaded guilty to a crime as a result of the unlawful acts in question, but the record is unclear as to the specific crime of which the court convicted him.

To receive compensation under the Crime Victims Compensation Act, a person must be a victim of a "crime of violence." (Ill. Rev. Stat. 1989, ch. 70, par. 72(a).) The General Assembly has itemized those crimes which are considered to be crimes of violence and which the Crime Victims Compensation Act may compensate. Both reckless conduct (Ill. Rev. Stat. 1989, ch. 38, par. 12—5), and reckless homicide (Ill. Rev. Stat. 1989, ch. 38, par. 9—3) are included, but on the day of the shooting, involuntary manslaughter was not included as a crime which could be compensated under the Crime Victims Compensation Act. (Ill. Rev. Stat. 1989, ch. 70, par. 72(c).) Prior to 1991, the Act classified reckless homicide, but not involuntary manslaughter, as a "crime of violence." Both were defined under the same section of the Illinois Criminal Code (Ill. Rev. Stat. 1989, ch. 38, par. 9—3).

The General Assembly subsequently amended the Crime Victims Compensation Act to include involuntary

manslaughter. (1991 Ill. Legis. Serv. 2474, P.A. No. 87—520 (West).) The State argues that because involuntary manslaughter and the unspecified crime for which the codefendant Logsden was convicted were not specifically listed in the Act at the time of the shooting, the Claimant cannot receive compensation. The State further argues that because the General Assembly did not amend the statute until after the date of the shooting, the Court may not apply the amended version to the instant case. This Court tends to agree with the State as to the issue of when the amended statute would be effective.

The Illinois Supreme Court in *Village of Wilsonville v.* **S.C.A.** ***Services, Inc.*** (1981), ***86*** Ill. 2d **1,** 426 N.E.2d 824, states, 'Without an express statutory provision stating an act is to have retroactive effect, it can only be applied prospectively." *Stigler v. City of Chicago* (1971), 48 Ill. 2d 20, 268 N.E.2d 26; ***People ex rel. Schmidt v.*** **Yeger** (1961), 20 Ill. 2d 338, 172 N.E.2d 753.

Because Public Act 87—520 (1991) does not expressly provide for retroactive application, we find that the provisions of the Crime Victims Compensation Act that apply to this claim are those in effect on the day of the shooting, July **4,** 1989.

However, we do not agree that because involuntary manslaughter was not in the Act on the date of the shooting, the statute automatically bars compensation for **the** Claimant. There is nothing in the Crime Victims Compensation Act which requires an arrest or prosecution in order for the innocent victim of a crime to receive compensation.

We find that the conduct of the defendants in the instant case met the criteria for reckless conduct (Ill. Rev. Stat. 1989, ch. 38, par. 12—5), which was a crime specifi-

cally included in the Crime Victims Compensation Act as of the date of the shooting. (Ill. Rev. Stat., ch. 70, par. 72(c).) The fact that the defendants did not ultimately plead guilty to this crime does not bar the Claimant from receiving compensation. The acts of these individuals amounted to, or constituted, reckless conduct, regardless of the record of prosecution. **A** common element in this crime is the mental element of recklessness. **A** person acts recklessly when he consciously disregards a substantial and unjustifiable risk knowing that circumstances exist or that a result will follow, and such disregard constitutes a gross deviation from the standard of care which a reasonable person would exercise in the situation. (Ill. Rev. Stat. 1989, ch. 38, par. 4—6.) The acts of Logsden and Smith clearly met this standard. Indeed, reckless conduct is a lesser included offense of involuntary manslaughter by its very definition. Therefore, to prove involuntary manslaughter, the State was required to first prove reckless conduct.

Mr. Smith's income was approximately $3,640 per month, He was 64 years old at the time of his death. The funeral expenses totaled $7,192. Therefore, we award the Claimant the sum of $25,000; $3,000 as funeral expenses and the remainder as lost income.

(No. 90-CV-1007—Claimant Sandra Howard awarded $7,973.68.)

In *re* APPLICATION OF HESTER REYNOLDS, SAMANTHA RATCLIFF, SANDRA HOWARD and SHEILA EDWARDS

***Opinion filed August** 27, 1990*

***Order filed March** 8, 1991.*

***Opinion filed** May 16, 1991.*

*Order filed July 6, 1992.*

***Opinion filed December** 18, 1992.*

HESTER REYNOLDS, SAMANTHA RATCLIFF, SANDRA HOWARD and SHEILA EDWARDS, pro *se*, for Claimants.

NEIL F. HARTIGAN and ROLAND W. BURRIS, Attorneys General (JAMES MAHER III and CHARLES A. DAVIS, JR., Assistant Attorneys General, of counsel), for Respondent.

CRIME VICTIMS *COMPENSATION* ***ACT—funeral expenses—eligibility requirements.*** Pursuant to section 80.1(c) of the Crime Victims Compensation Act, a person related to the victim is eligible for compensation for funeral expenses of the victim to the extent to which he has paid such expenses.

SAME—*violent crime—funeral and burial expenses denied—Claimants suffered* ***no compensable loss.*** Neither the mother of a murder victim nor the mother of one of the victim's children suffered a compensable loss under the Crime Victims Compensation Act with regard to payment of the victim's funeral and burial expenses, where the Illinois Department of Public Aid assumed responsibility for funeral expenses incurred by the victim's mother and, although the mother of one of the victim's children paid for his tombstone, she was not married to him and was therefore not a relative eligible for compensation.

SAME—*multiple* ***claims*** *for loss of* ***support-two*** *of* ***three Claimants failed to show children were dependent upon*** *victim for* ***support-third Claimant awarded compensation.*** In multiple claims filed by three different mothers of the murder victim's children, two of the three Claimants failed to establish their eligibility for compensation for loss of support for the children since they did not submit evidence showing that the children were dependent upon the victim for support prior to his death, but the third Claimant sufficiently documented her claim that, in the six months preceding the victim's death, he had contributed to her child's support, and she was awarded compensation.

## OPINION

DILLARD, J

This claim arises out of an incident that occurred on

November 4, 1989. Sandra Howard, mother of the victim's minor child, Sanrena Howard, and Hester Reynolds, mother of the deceased victim, Julius T. Williams, respectively, seek compensation pursuant to the provisions of the Crime Victims Compensation Act, hereafter referred to as the Act. Ill. Rev. Stat. 1987, ch. 70, par. 71 *et seq.*

This Court has carefully considered the applications for benefits submitted on January 29, 1990, and April 4, 1990, respectively, on the form prescribed by the Attorney General, and an investigatory report of the Attorney General of Illinois which substantiates matters set forth in the application. Based upon these documents and other evidence submitted to the Court, the Court finds:

1. That Julius T. Williams, age 28, was a victim of a violent crime as defined in section 72(c) of the Act, to wit, first degree murder (Ill. Rev. Stat. 1987, ch. 38, par. 9—1). The victim was shot on November 4, 1989, and expired from these injuries on November 11,1989.

2. That the crime occurred in Chicago, Illinois, and all of the eligibility requirements of section 76.1 of the Act have been met.

3. That the Claimant, Sandra Howard, seeks compensation for loss of support for the victim's minor child, Sanrena Howard. The Claimant, Hester Reynolds, seeks compensation for funeral expenses.

4. That the Illinois Department of Public Aid has assumed responsibility for the funeral expenses incurred by the Claimant, Hester Keynolds, as a result of the incident.

5. The minor child, Sanrena Howard, born July 10, 1980, was 9 years, 4 months, of age at the time of the incident. Sanrena Howard will attain the age of majority on July 10, 1998, which is 104 months after the incident.

**6.** That section 72(h) of the Act states that loss of support shall be determined on the basis of the victim's average net monthly earnings for the six months immediately preceding the date of the injury or on **$1,000** per month, whichever is less.

**7.** That the victim's average net monthly earnings were **$73.34.** Based on **$73.34** per month, the projected loss of support for **104** months, the maximum period for loss of support for the victim's minor child, is **$7,627.36**.

**8.** That the Claimant Sandra Howard has received no reimbursements that can be counted as an applicable deduction under section 80.1(e) of the Act.

9. That section 80.1(a) of the Act states that a person may be compensated for his pecuniary loss.

**10.** That the Claimant, Hester Reynolds, has not suffered a compensable pecuniary loss under the Act.

**11.** That the Claimant, Sandra Howard, has complied with all pertinent provisions of the Act and qualifies for compensation thereunder.

**12.** That the interest of the Claimant, Sandra Howard, would be best served if the award hereunder would be paid pursuant to the installment provision of section **81.1** of the Act.

It is therefore hereby ordered that the sum of **$7,627.36** be and is hereby awarded to Sandra Howard, mother of Sanrena Howard, minor child of Julius T. Williams, an innocent victim of a violent crime, to be paid and disbursed to her as follows:

**(a)** **$4,027.36** to be paid to Sandra Howard in a lump sum for the use and benefit of Sanrena Howard;

(b) 48 equal payments of $75 to be paid to Sandra Howard for the use and benefit of Sanrena Howard;

(c) In the event of the death or marriage of the Claimant's child, it is the duty of the personal representative of the Claimant to inform this Court in writing of such death or marriage for the purpose of the possible modification of the award.

It is further ordered that the claim of Hester Reynolds be, and is hereby denied.

ORDER

**SOMMER, J.**

This cause comes on to be heard on the Court's own motion;

On August 27, 1990, an opinion was entered which made an award for loss of support to Sandra J. Howard for the use and benefit of Sanrena Howard and denied compensation for funeral expenses to Hester Reynolds. Shortly thereafter, the purported mother of another child of the victim contacted the Court and filed an application for benefits.

Payment of the previous award has not been made due to the possibility that one or more children may also be entitled to an award which, due to the limits on the amount of compensation which can be awarded, may cause a reduction of the award for Sanrena Howard.

It is hereby ordered that this matter is referred to the office of the Attorney General for further investigation and report and that payment of the award rnade on August 27, 1990, is withheld until further order of ihe Court.

OPINION

SOMMER, J.

This claim arises out of an incident that occurred on November 4, 1989. Sandra Howard, mother of Sanrena Howard, minor child of the deceased victim, Hester Reynolds, mother of the deceased victim, Samantha Ratcliff, mother of Julius T. Williams, Jr., minor child of the deceased victim, and Sheila Edwards, mother of Julian T. Williams, minor child of the victim, seek compensation pursuant to the provisions of the Crime Victims Compensation Act, hereafter referred to as the Act. Ill. Rev. Stat. 1987, ch. 70, par. 71 *et seq.*

This Court has carefully considered the applications for benefits submitted on January 29, 1990, April 4, 1990, November 3, 1990, and September 25, 1990, respectively, on the forms prescribed by the Attorney General, and an investigatory report of the Attorney General of Illinois which substantiates matters set forth in the applications. Based upon these documents and other evidence submitted to the Court, the Court finds:

1. That Julius T. Williams, age 28, was a victim of a violent crime as defined in section 72(c) of the Act, to wit, first degree murder (Ill. Rev. Stat. 1987, ch. 38, par. 9—1). The victim was shot on November 4, 1989, and expired from these injuries on November 11, 1989.

2. That the crime occurred in Chicago, Illinois, and all of the eligibility requirements of section 76.1 of the Act have been met.

3. That the Claimant, Sandra Howard, seeks compensation for loss of support for the victim's minor child, Sanrena Howard. The Claimant, Hester Reynolds, seeks compensation for funeral expenses. The Claimant,

Samantha Ratcliff, seeks compensation for loss of support of the victim's minor child, Julius T. Williams, Jr. The Claimant, Sheila Edwards, seeks coinpensation for the cost of a tombstone and for loss of support for the victim's minor child, Julian T. Williams.

4. That pursuant to section 80.1(c) of the Act, a person related to the victim is eligible for compensation for funeral expenses of the victim to the extent to which he has paid such expenses.

5. That section 72(f) of the Act defines "relative" as a spouse, parent, grandparent, stepfather, stepmother, child, grandchild, brother, brother-in-law, sister, sister-in-law, half-brother, half-sister, spouse's parent, nephew, niece, uncle or aunt.

6. That the Claimant, Sheila Edwards, **is** the mother of one of the victim's children. However, the Claimant and the victim were never lawfully married. Therefore, Sheila Edwards is not a relative as defined in section 72(f) of the Act and is not eligible for compensation for the cost of the tombstone.

7. That the Illinois Department of Public Aid has assumed responsibility for the funeral expenses incurred by the Claimant, Hester Reynolds, as a result of the incident. Therefore, Hester Reynolds is not eligible for compensation for funeral expenses pursuant to section 80.1(c) of the Act.

8. That under No. 84-1901619 filed on June **13,** 1984, in the Circuit Court of Cook County, Illinois, Municipal Department, 1st District, the victim was found to be the father of Julius T. Williams, Jr. The victim was ordered to pay $75 per month to Samantha Ratcliff for child support of Julius T. Williams, Jr.

9. That the Claimant, Samantha Ratcliff, has not submitted evidence to substantiate that the victim was meeting his monthly child support obligation. Therefore, Samantha Ratcliff is not eligible for compensation for loss of support for Julius T. Williams, Jr.

10. That the Claimant, Sheila Edwards, has not submitted evidence to substantiate her allegation that Julian T. Williams was dependent upon the victim for support. Therefore, Sheila Edwards is not eligible for compensation for loss of support for Julian T. Williams.

11. That the Claimant, Sandra Howard, has submitted documentation to substantiate that Sanrena Howard was partially dependent upon the victim for support. During the six months immediately prior to his death, the victim contributed an average of $76.67 per month in support.

12. That the minor child, Sanrena Howard, born July 10, 1980, was 9 years and 4 months of age at the time of the incident. Sanrena Howard will attain the age of majority on July 10, 1998, which is 104 months after the incident.

13. That based on support payments of $76.67 per month, the projected loss of support for 104 months, the maximum period for loss of support for Sanrena Howard, is $7,973.68.

14. That the Claimant, Sandra Howard, has received no reimbursements that can be counted as an applicable deduction under section 80.1(a) of the Act.

15. That section 80.1(a) of the Act states that a person may be compensated for his pecuniary loss.

16. That the Claimants, Hester Keynolds, Samantha Ratcliff and Sheila Howard, have not suffered a compensable pecuniary loss under the Act.

17. That the Claimant, Sandra Howard, has complied with all pertinent provisions of the Act and qualifies for compensation thereunder.

18. That the interest of the Claimant, Sandra Howard, would be best served if the award hereunder would be paid pursuant to the installment provision of section 81.1 of the Act.

It is therefore, hereby ordered that the sum of $7,973.68 be and is hereby awarded to Sandra Howard, mother of Sanrena Howard, minor child of Julius T. Williams, an innocent victim of a violent crime, to be paid and disbursed to her as follows:

(a) $4,973.68 to be paid to Sandra Howard in a lump sum for the use and benefit of Sanrena Howard;

(b) 48 equal monthly payments of $75 to be paid to Sandra Howard for the use and benefit of Sanrena Howard;

(c) In the event of the death or marriage of the Claimant or the Claimant's children it is the duty of the personal representative of the Claimant to inform this Court in writing of such death or marriage for the purpose of the possible modification of the award.

It is further ordered that the claims of Hester Reynolds, Samantha Ratcliff and Sheila Edwards be, and are, hereby denied.

ORDER

SOMMER, J.

This cause coming to be heard upon Respondent's motion to dismiss, due notice having been given, and the commissioner being fully advised in the premises, it is found that:

1. This claim was scheduled for hearing on November 22, 1991, at 100 West Randolph Street, Room 10-400, Chicago, Illinois, 60601.

2. That only Samantha Ratcliff and Sheila Edwards appeared at the scheduled hearing.

3. That Sheila Edwards was prepared and ready to proceed.

4. That Samantha Ratcliff was given an additional period of 60 days to substantiate her claim with the Attorney General's Office.

5. That on December 7, 1991, the Attorney General's Office sent a certified letter to the Claimant Samantha Ratcliff, again requesting substantiation to which there has been no response.

6. That since November 22, 1991, Samantha Ratcliff has made no contact with the Attorney General's Office.

7. That on December 14,1991, the Attorney General's Office sent a certified letter to Claimant, Hester Reynolds, which was received and to which there has been no response.

8. That this matter has been set for hearing on one previous occasion and that no progress has been made.

9. That Claimants received notice of this prior hearing and either failed to appear or were not prepared to proceed.

10. That Respondent was present and prepared to proceed on each occasion.

11. That Rule 26 of the Rules of the Court of Claims provides:

"A case may he dismissed for want of prosecution where the Court determines that the claimant has made no attempt in good faith to proceed."

12. In light of the aforementioned facts, neither Hester Reynolds nor Samantha Ratcliff has made a good faith effort to proceed in this matter.

Wherefore, it is hereby ordered the claims of Samantha Ratcliff and Hester Reynolds are hereby dismissed for want of prosecution.

## OPINION

SOMMER, J.

This claim arises from the murder of the victim, Julius T. Williams. Hester Reynolds (mother of the deceased victim), Sandra Howard (mother of Sanrena Howard, minor child of the deceased victim), Samantha Ratcliff (mother of Julius T. Williams, Jr., minor child of the deceased victim) and Sheila Edwards (mother of Julian T. Williams, minor child of the deceased victim) seek compensation pursuant to the provisions of the Crime Victims Compensation Act, hereinafter referred to as the Act. Ill. Rev. Stat. 1987, ch. 70, par. 71 *et seq.*

On May 16, 1991, this Court rendered an opinion which awarded $7,973.68 to Claimant Sandra Howard for the benefit of Sanrena Howard, minor child of the deceased victim. That order denied the claims of Hester Reynolds, Samantha Ratcliff, and Sheila Edwards. These Claimants subsequently requested a hearing to contest the denial of their claims.

On November 22, 1991, a hearing was held before Commissioner Rochford of the Court of Claims. Claimants Samantha Ratcliff and Sheila Edwards appeared *pro se,* and Assistant Attorneys General James Maher III and Charles Davis, Jr., appeared on behalf of the Respondent, State of Illinois.

On April 26, 1992, the Respondent filed a motion to dismiss for want of prosecution in regard to the claims of Hester Reynolds and Samantha Ratcliff. On July 6, 1992, the Court dismissed the claims of Samantha Ratcliff and Hester Reynolds. Therefore, this opinion addresses only the claim of Sheila Edwards.

In regard to Sheila Edwards' claim, the undisputed facts are as follows:

Sheila Edwards is the mother of Julian T. Williams. Julian T. Williams is the son of the deceased victim Julius T. Williams. The Claimant, Sheila Edwards, and the victim, Julius T. Williams, were never lawfully married. The Claimant seeks loss of support for the victim's minor child, Julian T. Williams.

The victim's minor child, Julian T. Williams, was born on October 24, 1989. The victim was shot on November 4,1989, and died on November 21,1989.

There is no evidence that the victim was employed at the time of his death or in the six months prior to his death, Further, the Claimant was unable to substantiate any contributions made by the victim to the household in the six months prior to his death.

The issue is whether the Claimant's minor child was dependent upon the deceased victim.

The Act defines "dependent" as a relative of a deceased victim who is wholly or partially dependent on the victim's income at the time of his death. In determining the loss of support, the Act considers the victim's average net income in the six months prior to the victim's death.

This Court has held "that mere entitlement to support is not dependency under the Act." ***In re Application of Smith*** (1976), 31 Ill. Ct. Cl. 675,679.

Where there is no evidence that a victim was actually contributing to a person's support, there can be no dependency under the Act. In looking at the Act as a whole, it is clear that the legislature intended to compensate those persons who experience out-of-pocket loss in defined circumstances.

One who is not actually receiving support at the time of the crime cannot be said to have had an out-of-pocket loss. An expectancy of support is not dependency under the Act. *In re Application of Smith* (1976), 31 Ill. Ct. Cl. 675,679.

In this case, there is no evidence that the victim was employed or receiving income in the six months prior to his death, and there is no evidence that the victim was contributing to the support of his minor child, Julian T. Williams, at the time of the victim's death.

For purposes of the Act, Sheila Edwards' minor child, Julian T. Williams, was not a dependent of the victim and, therefore, her request for compensation for loss of support for Julian T. Williams is denied.

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(No. 91-CV-0021 — Claim denied.)

*In re* APPLICATION OF DIANA RAISANEN

*Order filed October 31, 1990.*

*Order filed* July *13, 1992.*

DIANA RAISANEN, *pro* se, for Claimant.

NEIL F. HARTIGAN and ROLAND W. BURRIS, Attorneys General (JAMES MAHER III, Assistant Attorney General, of counsel), for Kespondent.

CRIME VICTIMS COMPENSATION ACT—*victim and assailant lived together on part-time basis—claim* denied. The Court of Claims denied a request for compensation by the mother of a deceased murder victim who was living on a par-time basis with her assailant boyfriend at the time of her death, since the Crime Victims Compensation Act prohibits recovery where the victim and the assailant were "sharing the same household" at the time the crime occurred, and the daughter's living arrangement with the boyfriend fell within the meaning of that phrase.

## ORDER

PATCHETT, J.

This claim arises out of an incident that occurred on March 15, 1990. Diana Raisanen, mother of the deceased victim, Kimberly Sue Griebe, seeks compensation pursuant to the provisions of the Crime Victims Compensation Act, hereafter referred to as the Act. Ill. Rev. Stat. 1987, ch. 70, par. 71 *et seq*.

This Court has carefully considered the application for benefits submitted on July 3, 1990, on the form prescribed by the Attorney General, and an investigatory report of the Attorney General of Illinois which substantiates matters set forth in the application. Based upon these documents and other evidence submitted to the Court, the Court finds:

1. That on March 15, 1990, the Claimant's deceased daughter, Kimberly Sue Griebe, age 25, was the victim of a violent crime as defined in section 72(c) of the Act, to wit, first degree murder (Ill. Rev. Stat. 1987, ch. 38, par. 9—1).

2. That the crime occurred in Steger, Illinois.

**3.** That section 76.1(d) of the Act states that the Claimant is entitled to compensation if the victim and the assailant were not sharing the same household at the time the crime occurred.

4. That the Attorney General's investigation shows that the victim and the assailant were sharing the same household at the time the crime occurred.

5. That the Claimant has not met a required condition precedent for compensation under the Act.

It is hereby ordered that this claim be, and is hereby, denied.

ORDER

PATCHETT, J

This claim arises as a result of the murder which took place on March 15, 1990. The victim was Kimberly Sue Griebe, who was murdered by her boyfriend. Diana Raisanen, the mother of the deceased victim, seeks compensation pursuant to the provisions of the Crime Victims Compensation Act, hereinafter referred to as the Act. Ill. Rev. Stat. 1987, ch. 70, par. 71 *et seq.*

The Attorney General's Office, after conducting an investigation of this case, concluded that the victim and the assailant were sharing the same household at the time the incident occurred. Based on the results of that investigation, the Court entered an order on October 31, 1990, which denied the claim pursuant to section 76.1(d) of the Act, which at the relevant time of the order entered stated as follows:

"° ° ° if the victim is deceased and the victim and assailant were sharing the same household at the time the crime occurred, no award shall be made." Ill. Rev. Stat. 1987, ch. 70, par. 76.1(d).

On November 9, 1990, Claimant requested a review of the Court's findings. The matter was set for hearing before a commissioner of this Court. At that hearing, it was the position of the Claimant that the victim did not have a permanent full-time residence, but that she shared

the Claimant's residence at 2110 Winston, Crete, Illinois, until January 1990, at which time she had moved to her grandmother's house at 1481 Vincennes in Crete, Illinois. Claimant further testified that the majority of the victim's personal belongings, including clothes and makeup, were at the Vincennes address at the time of the crime.

In support of her position, the Claimant produced the victim's driver's license which was issued on February 28, 1990, and which identified the victim's address as 1481 Vincennes, Crete, Illinois. In addition, the victim's 1989 W-2 tax form was received in January 1990 and bore the victim's address as 2110 Winston, Crete, Illinois.

The Claimant did, however, acknowledge that the victim was having a relationship with the offender, and that she did stay at the assailant's house. In fact, the Claimant's letter to the Court of Claims dated November 7, 1990, in which she requested a review of the hearing, stated that the victim did live with the assailant. The Claimant testified that the victim only spent about one-third of her time at the assailant's residence.

The issue is whether the statute prohibits a victim who lives with the assailant on a part-time basis from receiving an award pursuant to the Act.

This Court has consistently ruled that it was the intent of the legislature to deny compensation for injuries arising out of most domestic quarrels. The legislature did not intend that this Court enter into the morass of trying to determine provocation or causes of quarrels between relatives or other people who live together. This Court has reasoned that crimes among relatives constitute a large percentage of the total number of reported violent crimes, and the legislature did not intend for the State of Illinois to take on the financial burden of compensating

victims of domestic quarrels. *(In re Application of Gordon* (1976), 31 Ill. Ct. Cl. 707, 709.) Clearly the legislature intended to deny compensation in situations where the victim and assailant lived together, even if that was on a part-time basis. While we sympathize with the Claimant because of the enormous emotional pain and anguish caused by this crime, we must follow the intent of the legislature.

We therefore affirm our previous order of denial.

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(No. 91-CV-0936—Claimant awarded $8,883.34.)

*In re* APPLICATION OF RICKY HOUSE

*Order filed May 21, 1992.*

*Opinion filed March 4, 1993.*

KICKY HOUSE, *pro se,* for Claimant.

ROLAND W. BURRIS, Attorney General, for Respondent.

CRIME VICTIMS COMPENSATION ACT—*loss of earnings—Claimant awarded compensation after sick pay deduction.* The Claimant, a victim of the violent crime of aggravated battery, established his entitlement to an award for loss of earnings under the Crime Victims Compensation Act by proving his net monthly earnings for the six months prior to the incident, but the award was reduced by the amount the Claimant received from his employer in sick pay benefits.

SAME—*compensation for medical and hospital expenses—portion of Claimant's award made directly to medical provider with lien.* Where the Claimant, an aggravated battery victim, was awarded $8,100.10 in compensation for medical and hospital expenses incurred as a result of his injuries, the Court of Claims directed that a portion of the award be disbursed directly to a medical provider who had filed a lien with the Court, and the balance of the award was made co-payable to the Claimant and the other providers to whom payment was owed.

ORDER

SOMMER, J

This cause comes on to be heard on the application of Ricky House for benefits under the Crime Victims Compensation Act, hereinafter referred to as the Act (Ill. Rev. Stat., ch. 70, par. 71 *et seq.*), following the Attorney General's filing of the investigatory report, and the Court being advised, finds:

On May 16, 1990, Ricky House, age *32,* was the victim of a violent crime as defined in section 72(c) of the Act, to wit, aggravated battery (Ill. Rev. Stat., ch. **38,** par. 12—4). The crime occurred in Chicago, Illinois, and all of the eligibility requirements of section 76.1 of the Act have been met.

The applicant seeks compensation for medical/hospital expenses and for loss of earnings. He has complied with all pertinent provisions of the Act and qualifies for compensation thereunder. As to the amount of compensation and its disbursal, the Attorney General's investigatory report recommends the following.

1. Loss of Earnings—section 72(h) of the Act states that loss of earnings shall be determined on the basis of the victim's average net monthly earnings for the six months immediately preceding the date of the injury or $1,000 per month, whichever is less. The applicant's net monthly earnings for the six months prior to the incident were $756.73. He was disabled and unable to work for a period of three months and 12 working days. Based on those figures, the maximum compensation for lost earnings is $2,682.99.

However, the report adds that the applicant has received $1,899.75 in **sick** pay benefits from his employer.

This money is a deduction under section 80.1(e) of the Act.

The investigatory report concludes with the recommendation that the applicant be awarded **$783.24** for loss of earnings.

2. Medical/Hospital Expenses—After considering insurance and other sources of recovery, the report concludes that the applicant has incurred compensable medical/hospital bills totalling $8,100.10 toward which he has paid nothing. The expenses break down as follows:

| | |
|---|---|
| Loyola Medical Practice Plan | **$5,131.20** |
| Foster G. McGaw Hospital | 2,114.90 |
| Maywood Anesthesiologists | 537.00 |
| Superior Ground Ambulance Services, Inc. | **317.00** |
| Total | $8,100.10 |

The report further stated that on July 18, 1991, Loyola Medical Practice Plan filed a lien with the Court of Claims concerning its bill. The report recommends paying this portion of the award directly to the provider based on the lien and awarding the balance of the expenses co-payable to the provider and the applicant pursuant to section 88 of the Act.

At the time the report was filed the Court did not have any record of having received a lien from Loyola Medical Practice Plan. If such a lien was filed with the office of the Attorney General only, the Court, which controls the awarding of the benefits, would not have been bound thereby. However, a lien was subsequently filed by Loyola Medical Practice Plan with the Court on March **20, 1992.** The amount of the lien was **$5,131.20** which is the amount of the award recommended by the office of the Attorney General.

A few weeks after the investigatory report was filed, eight separate notices of physicians liens for unstated amounts were filed. The report contained no recommendation to make awards based on services provided to any of those persons and businesses. Informal efforts by the Court administrator resulted in releases being filed for all but *two* of these liens. Notices of liens remain on file for Radha Sukhani, M.D., and Prabhakor Garla, M.D. These doctors did not respond to the Court administrator's inquiry. Therefore it will be necessary to hold a hearing to adjudicate the rights of all the interested parties.

It is hereby ordered that the final decision in this matter is held in abeyance and that this claim **is** to be assigned to a commissioner for the purpose of conducting a hearing and filing a recommendation as to the amount and disbursal of funds to be awarded. The commissioner is to send notice to all interested parties that they may appear and participate at the hearing. The parties are hereby notified that if Doctors Sukhani and Garla fail to appear in person or by counsel, the Court will give no effect to their liens. The Court will enter and disburse an award in accordance with the recommendations of the office of the Attorney General set forth hereinabove if no evidence to the contrary is presented by any interested party.

OPINION

SOMMER, J.

On May 16, 1990, Kicky House, age 32, was the victim of a violent crime as defined in section 72(c) of the Act, to wit, aggravated battery (Ill. Rev. Stat., ch. **38,** par. 12—4). The crime occurred in Chicago, Illinois, and all of the eligibility requirements have been met.

The applicant sought compensation for medical/hos-

pital expenses and for loss of earnings. He complied with all pertinent provisions of the Act and qualified for compensation thereunder. As to the amount of compensation and its disbursal, the Attorney General's investigatory report recommended the following.

**1.** Loss of Earnings—Section 72(h) of the Act states that loss of earnings shall be determined on the basis of the victim's average net monthly earnings for the six months immediately preceding the date of the injury or $1,000 per month, whichever is less. The applicant's net monthly earnings for the six months prior to the incident were $756.73. He was disabled and unable to work for a period of three months and 12 working days. Based on those figures, the maximum compensation for lost earnings is $2,682.99.

However, the report adds that the applicant has received $1,899.75 in sick pay benefits from his employer. This money is a deduction under section 80.1(e) of the Act.

The investigatory report concludes with the recommendation that the applicant be awarded $783.24 for loss of earnings.

**2.** Medical/Hospital Expenses—After considering insurance and other sources of recovery, the report concludes that the applicant has incurred compensable medical/hospital bills totalling $8,100.10 toward which he has paid nothing. The expenses break down as follows:

| | |
|---|---|
| Loyola Medical Practice Plan | $5,131.20 |
| Foster G. McGaw Hospital | 2,114.90 |
| Maywood Anesthesiologists | 537.00 |
| Superior Ground Ambulance Services, Inc. | 317.00 |
| Total | $8,100.10 |

The report further states that on July 18, 1991, Loyola Medical Practice Plan filed a lien with the Court of Claims concerning its bill. The report recommends paying this portion of the award directly to the provider based on the lien and awarding the balance of the expenses co-payable to the provider and the applicant pursuant to section 88 of the Act.

At the time the report was filed, this Court did not have any record of having received a lien from Loyola Medical Practice Plan. If such a lien were filed with the office of the Attorney General only, this Court, which controls the awarding of the benefits, would not have been bound thereby. However, a lien was subsequently filed by Loyola Medical Practice Plan with this Court on March 20, 1992. The amount of the lien was $5,131.20, which is the amount of the award recommended by the office of the Attorney General.

A few weeks after the investigatory report was filed, eight separate notices of physicians' liens for unstated amounts were filed. The report contained no recommendation to make awards to any of those persons and businesses. Informal efforts by the Court administrator resulted in releases being filed for all but two of these liens. Notices of liens remain on file for Prabhakar Garla, M.D., and Kadha Sukhani, M.D. These doctors did not respond to the Court administrator's inquiry. Therefore, it was necessary to hold a hearing to adjudicate the rights of all the interested parties.

On May 21, 1992, this Court ordered that the final

commissioner was ordered to send notice to all interested parties so that they may appear and participate at the hearing. Doctors Sukhani and Garla were notified that if they failed to appear in person or by counsel this Court would give no effect to their liens. This Court further ordered that it would enter and disburse an award in accordance with the recommendations of the office of the Attorney General set forth hereinabove if no evidence to the contrary was presented by any interested party.

The matter was assigned to Commissioner Rochford and the matter was set for hearing on October 22, 1992, at 2:00 p.m. Notices were sent to Radha Sukhani, M.D., and Prabhakar Garla, M.D. Doctors Sukhani and Garla failed to appear at the hearing. It is therefore ordered that any liens created by the notices of lien filed by Doctors Garla and Sukhani are extinguished and that awards are entered according to the recommendations of the Attorney General contained herein and that said awards shall be disbursed.

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(No. 91-CV-0995—Claim denied.)

*In re* APPLICATION OF WILMA STEFFEL

*Order filed January 29,1992.*

*Opinion filed June 29, 1993.*

WILMA STEFFEL, *pro se,* for Claimant.

ROLAND W. BURRIS, Attorney General (CHARLES A. DAVIS, JR., Assistant Attorney General, of counsel), for Respondent.

CRIME VICTIMS COMPENSATION ACT—*requirements for eligibility.* For a Claimant to be eligible for compensation under the Crime Victims Compen-

sation Act there must be evidence that the Claimant was the victim of a violent crime as specifically set forth in the Act, and an award of compensation shall be reduced to the extent to which any criminal conduct of the victim may have directly or indirectly contributed to the injury of the victim.

SAME—*domestic dispute—Claimant contributed to her injury—no evidence of violent crime-claim denied.* In a claim by a woman seeking compensation for injuries she allegedly received during an altercation with her ex-husband, the evidence indicated that the Claimant had initiated the domestic dispute and her claim was denied, since the actions of the ex-husband did not constitute a crime specifically set forth under the Crime Victims Compensation Act, and the Claimant's conduct significantly contributed to her injuries.

ORDER

MONTANA, C.J.

This claim arises out of an incident that occurred on December 17, 1989. The Claimant, Wilma Steffel, seeks compensation pursuant to the provisions of the Crime Victims Compensation Act, hereafter referred to as the Act. Ill. Rev. Stat. 1987, ch. 70, par. 71 *et seq.*

This Court has carefully considered the application for benefits submitted on November 7, 1990, on the form prescribed by the Attorney General, and an investigatory report of the Attorney General of Illinois which substantiates matters set forth in the application. Based upon these documents and other evidence submitted to the Court, the Court finds:

1. That on December 17, 1989, the Claimant alleges that she was injured by her ex-husband, the alleged offender. The alleged incident occurred at 12500 South Austin, Palos Heights, Illinois. Police investigation revealed that prior to the incident, the Claimant initiated a domestic dispute with the alleged offender over the division of property as defined in their divorce decree. The alleged offender accused the Claimant of taking property that did not belong to her. The Claimant

accused the alleged offender of threatening her with a knife and twisting her arm. Further investigation revealed that the alleged offender received a cut to his hand as he attempted to grab a steak knife from the Claimant. Attempts from the responding police officer to resolve this situation resulted in the Claimant becoming abusive to the alleged offender and being asked to leave the premises. The conclusion of the investigation determined that the Claimant was the aggressor in this incident. The Cook County State's Attorney Office declined to approve charges in this case indicating that the credibility of the combatants and witnesses was in question.

**2.** That section 80.1 of the Act indicates factors used to determine entitlement to compensation. Specifically, section 80.1(d) of the Act states that an award shall be reduced or denied according to the extent to which the victim's acts or conduct provoked or contributed to his injury or death, or to the extent to which any prior criminal conviction or conduct of the victim may have directly or indirectly contributed to the injury or death of the victim.

***3.*** That it appears from the investigatory report and the police report that the Claimant initiated all the dispute which resulted in her alleged injuries.

**4.** That the Claimant's conduct contributed to her injury to such an extent as to warrant that the Claimant be denied entitlement to compensation.

5. That in order for a claimant to be eligible for compensation under the Act, there must be evidence that one of the violent crimes specifically set forth under section 72(c) of the Act occurred.

6. That the actions of the offender did not constitute

a violent crime specifically set forth under section 72(c) of the Act.

7. That this claim does not meet required conditions precedent for compensation under the Act.

It is hereby ordered that this claim be, and is hereby denied.

## OPINION

FREDERICK, J.

On January 29, 1992, the Court entered an order denying the Claimant's claim based on the investigatory report of the Attorney General. The Court found that the Claimant's conduct contributed to her injury to such an extent as to warrant that the claim be denied. The Court further found the actions of the alleged offender did not constitute a crime specifically set forth under section 72(c) of the Act. The Claimant requested an evidentiary hearing on the claim and the cause was tried before Commissioner Sternik on March 2, 1993.

Claimant testified that she believed her claim is based on an attempted murder situation carried out by her ex-husband. She claims her ex-husband denied her right to remove her personal effects from the home. Claimant testified there were numerous complaints filed by her against her former husband but they were conveniently erased. She also stated the police officer was paid to file a false report. When she finally received a copy of the police report from the purported incident, she found that a false claim had been filed with the State's Attorney. She testified the incident stated in the report did not take place. Claimant told the police the report was false.

Claimant indicated she would not stop at the Court

of Claims but would take her case to the Governor. Claimant feels like she is being treated as a culprit rather than a victim in this case. She cannot understand the police report and wanted it explained to her. The reports admitted into evidence indicate the sheriff's office disposed of the criminal cases by stating,

"Situation does not warrant criminal proceedings; Order of Protection to be obtained by above Complainant. (Husband and Wife)."

The police report in the case indicates when the police arrived Mr. Steffel was bleeding and Mrs. Steffel was accusing him of twisting her arm. The police found it apparent that Claimant started the fight. No obvious injury was found to Claimant and Mr. Steffel was cut. Officer O'Neill noted that despite his attempts to resolve the argument, Claimant continued to curse Mr. Steffel. The reports also indicate that the State's Attorney refused Claimant's request for a criminal complaint against Mr. Steffel because Claimant was the offender in the incident. The officer indicated Claimant was uncooperative and abusive during the time he tried to resolve the matter.

## The Law

The Crime Victims Compensation Act is a secondary source of recovery. *(In re Application of Lavorini* (1989), **42** Ill. Ct. Cl. 390.) The Act is intended to aid and assist crime victims under certain circumstances to receive compensation to help pay for the damage they sustained. The rules and procedures applicable to such claims must be followed before the Court of Claims can award benefits. *(In re Application of Geraghty* (1989), **42** Ill. Ct. Cl. 388.) For a claimant to be eligible for compensation, there must be evidence that the claimant was the victim of a violent crime as specifically set forth in section **22** of the Act. *(In re Application of Lazarus* (1986), 39 Ill. Ct.

Cl. 312.) The Claimant has the burden of proving her claim by a preponderance of the evidence. *In re Application of Sole* (1976), 31 Ill. Ct. Cl. 713; *In re Application of Hogan* (1985), 38 Ill. Ct. Cl. 395.

The Crime Victims Compensation Act also provides that the award of compensation shall be reduced to the extent which any criminal conduct of the victim may have directly or indirectly contributed to the injury of the victim. *In re Application of Wintrol* (1985), 38 Ill. Ct. Cl. 409.

We have carefully reviewed the entire record in this case, From a review of the record, we find that Claimant has not proven that she was the victim of a violent crime as defined in the Act by a preponderance of the evidence. Claimant requested a trial and a trial was held. The trial was the time to present evidence and not the time to make unsubstantiated claims that police and prosecutors were paid off, filed false reports, or were in cahoots with her ex-husband. As a Court, we can understand that Claimant was going through a difficult dissolution and post-dissolution time. However, we are bound by rules and burdens of proof. Claimant was given the opportunity to present evidence. That evidence did not fulfill her burden of proof. *In re Application of Alexander* (1991), 43 Ill. Ct. Cl. 459.

For the foregoing reasons, it is the order of this Court that Claimant's claim pursuant to the Crime Victims Compensation Act is hereby denied.

(No. 92-CV-0178—Claim denied.)

*In re* APPLICATION OF DEBRA SPAIN

*Order filed November* 1,1991.

*Orderfiled May* 17,1993.

DEBRA A. SPAIN, pro se, for Claimant.

ROLAND W. BURRIS, Attorney General (JAMES MAHER III and LAWRENCE C. RIPPE, Assistant Attorneys General, of counsel), for Respondent.

CRIME VICTIMS COMPENSATION ACT—*basis for reduction or denial of award—victim provoking or contributing to his death.* Section 80.1 of the Crime Victims Compensation Act states that an award under the Act shall be reduced or denied according to the extent to which the victim's acts provoked or contributed to his injury or death, or to the extent to which any prior criminal conviction or conduct may have contributed to his death.

SAME—*victim provoked beating which resulted in his death-claim denied.* The Court of Claims denied a claim for compensation by the mother of a man who died from injuries sustained in a beating by two men at a party, where the victim provoked the attack by hitting one of his assailants who had not argued with or threatened him, but who was talking to the victim's girlfriend.

## ORDER

SOMMER, J.

This claim arises out of an incident that occurred on June 22, 1991. Debra A. Spain, mother of the deceased victim, Jeffery S. Garbo, seeks compensation pursuant to the provisions of the Crime Victims Compensation Act, hereafter referred to as the Act. Ill. Rev. Stat. 1989, ch. 70, par. 71 *et seq.*

This Court has carefully considered the application for benefits submitted on July 29,1991, on the form prescribed by the Attorney General, and an investigatory report of the Attorney General of Illinois which substantiates matters set forth in the application. Based upon these documents and other evidence submitted to the

Court, the Court finds:

1. That on June 22, 1991, the victim was beaten during an altercation with the two alleged offenders. The incident occurred near 800 West 5th Street, Johnston City, Illinois. Police investigation revealed that following a verbal dispute with one of the alleged offenders, the victim struck him. The alleged offenders then proceeded to beat the victim. The victim was hospitalized on July 5, 1991, and expired from his injuries sustained during the beating on July 7, 1991. The Claimant then reported this incident to the police and the alleged offenders were subsequently charged with involuntary manslaughter. The criminal proceedings against them are currently pending.

2. That section 80.1 of the Act indicates factors used to determine entitlement to compensation. Specifically, section 80.1(d) of the Act states that an award shall be reduced or denied according to the extent to which the victim's acts or conduct provoked or contributed to his injury or death, or to the extent to which any prior criminal conviction or conduct of the victim may have directly or indirectly contributed to the injury or death of the victim.

3. That it appears from the investigatory report and the police report that the victim was the aggressor in this incident.

4. That the victim's conduct contributed to his death to such an extent as to warrant that the Claimant be denied entitlement to compensation.

5. That in order for a claimant to be eligible for compensation under the Act, there must be evidence that one of the violent crimes specifically set forth under section 72(c) of the Act occurred.

6. That involuntary manslaughter is not one of the

violent crimes specifically set forth under section 72(c) of the Act.

7. That according to section 76.1(b) of the Act, a person is entitled to compensation under this Act if the appropriate law enforcement officials were notified of the perpetration of the crime allegedly causing the death or injury to the victim within 72 hours, or in the event such notification was made more than 72 hours after the perpetration of the crime, the applicant establishes that such notice was timely under the circumstances.

8. That the law enforcement officials were notified **14** days after the perpetration of the crime and the Claimant has failed to establish that such notification was timely under the circumstances.

9. That this claim does not meet required conditions precedent for compensation under the Act.

It is hereby ordered that this claim be, and is, hereby denied.

## OPINION

**SOMMER,** C.J.

The Claimant, Debra A. Spain, the natural mother of Jeffery Scott Garbo, deceased, seeks benefits under the applicable provisions of the Crime 'Victims Compensation Act for the death of her son on July 7,1991.

On June 22,1991, Jeffery Scott Garbo was beaten by two assailants after he started a fight with one of the assailants who had been talking to his girlfriend. The incident occurred **at** a party in the public housing development in Johnston City, Illinois. The victim was hospitalized on July **5,** 1991, and expired from a subdural hematoma on July 7, 1991.

Criminal proceedings were commenced against the offenders in the Williamson County Circuit Court, resulting in their pleas of guilty to charges of involuntary manslaughter in connection with the death of Jeffery Scott Garbo.

Tanya Richardson, who was the decedent's girlfriend, testified that she had arranged to meet the decedent at a party in Johnston City. Tanya arrived at approximately 10:00 p.m. The decedent was already at the party and had been drinking, but was not drunk, Tanya had a "little argument" with the decedent, and the decedent went for a walk. The decedent was a little bit angry when he left, and Tanya had begun to leave the party so that she could call her sister to go home. As she exited, she began talking to one of the revelers who had been drinking and was walking in an unsteady way. The decedent then walked up and hit the man to whom Tanya had been talking. The decedent had not argued with the man, and the man had not acted in a threatening manner toward the decedent. The brother of the man whom the decedent had struck came out and started a fight with the decedent. The fight lasted for 15 or 20 minutes. The decedent lost consciousness, but no one called an ambulance, The decedent was not taken to the hospital, and no one suggested that he ought to go. The decedent regained consciousness and he and Tanya went for a walk and returned to the party.

Tanya called the decedent's mother to come and get him before his assailants started something with him again. Tanya tricked the decedent into going for a walk with her to the Dairy Queen where she had made previous arrangements for the decedent's mother to pick him up.

After the decedent's mother picked him up at the Dairy Queen, Tanya went back to the party, and after 25 or **30** minutes called her sister and went home.

The decedent's mother testified that she picked her son up at the Dairy Queen. When she picked him up he had been drinking and was angry. His eyes were red and he "cussed" a lot, which he sometimes did when he was intoxicated. The Claimant noticed a slight black mark under the decedent's right eye, and a scratch at the outside corner of his right eye, but noticed no other injuries.

The Claimant testified that two days later, the decedent started complaining about headaches. The Claimant took him to the Franklin County Hospital in Benton, where he waited three hours in the emergency room to be seen, but lost patience and left the hospital. On July **4,** the decedent did not go *to* a family picnic and slept. On July ***5*** when he got up he couldn't walk straight and walked into a wall. **As** far as his mother knows, he had not been drinking between June 24 and Judy 5, but for a day and a half or two days, her son had visited a friend of the Claimant's in Johnston City and had stayed away from home.

On July 5, after the decedent walked into a wall, he grabbed his shoes and a pillow and began to take a step and fell face first. The Claimant called an ambulance and the decedent was taken to the hospital. While conversing with her son shortly before he fell, the Claimant testified that her son mentioned "something about a black beauty," which is a drug or capsule. The Claimant testified that she couldn't understand what her son said, and that he appeared that he didn't know where he was and seemed to be intoxicated or under the influence of drugs.

Her son was taken by helicopter to St. Mary's Hospi-

tal in Evansville and was operated on July 6, 1991. He died July 7, 1991. The doctors said that the decedent had died as a result of hard blows to the head.

The Claimant testified that neither her son nor Tanya called the police prior to July 6. The Claimant did not call the police because she did not know that her son was hurt. The Claimant testified if she had known that her son was hurt "that bad' she would have called the police.

On November 1,1991, the present claim was denied by order of this Court. The Claimant appealed this denial and the claim was heard before the commissioner on May 7, 1992.

The claim was originally denied on three grounds:

First, that the crime was not reported to the police within 72 hours, or that whatever notification was made after 72 hours was "timely under the circumstances." Ill. Rev, Stat., ch. 70, par. 76.1(6).

Second, that the decedent "provoked or contributed to his injury or death." (Ill. Rev. Stat., ch. 70, par. 80.1.) Any award may be reduced or denied according to the extent to which the decedent "provoked or contributed to his injury or death."

Third, that the offenders were charged with involuntary manslaughter, a crime that does not give rise to compensation under the Act. Ill. Rev. Stat., ch. 70, par. 72(c).

The testimony shows that the decedent provoked the beating he received. The question is whether compensation should be entirely denied or be reduced. We find that compensation should be entirely denied. A person generally may not start an altercation when drinking and then when injured in the altercation demand that the tax-

payers pay for the injury. In this claim, the response of the perpetrators, that is, to fight, would not be unexpected by the decedent. Though the end result was tragic, the decedent did commit a crime and provoked a situation in which injuries were possible.

We need not consider the other grounds for denial, as the decedent's conduct provoked his injury and death.

It is therefore ordered that this Court's order of November 1,1991, is affirmed and this claim is denied.

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(No. 92-CV-0711—Claim denied.)

*In* re APPLICATION OF BRENDA J. CATRON

*Order filed January* 29, *1992.*

Opinion *filed* December 18,1992.

BRENDA J. CATRON, *pro* se, for Claimant,

ROLAND W. BURRIS, Attorney General (CHARLES A. DAVIS, JR., Assistant Attorney General, of counsel), for Respondent.

CRIME VICTIMS COMPENSATION ACT—*hit* and run accident was *not violent* crime-claim *denied.* A required condition precedent to recovery under the Crime Victims Compensation Act is that there be evidence of one of the violent crimes specifically set forth in section 72(c) thereof, and since the Claimant was the victim of a hit and run accident which was not considered a crime of violence under the Act, her claim for compensation was denied.

## ORDER

MONTANA, C.J.

This claim arises out of an incident that occurred on March 19, 1991. The Claimant, Brenda J. Catron, seeks compensation pursuant to the provisions of the Crime

Victims Compensation Act, hereafter referred to as the Act. Ill. Rev. Stat. 1989, ch. 70, par. 71 *et seq.*

This Court has carefully considered the application for benefits submitted on October 11, 1991, on the form prescribed by the Attorney General, and an investigatory report of the Attorney General of Illinois which substantiates matters set forth in the application. Based upon these documents and other evidence submitted to the Court, the Court finds:

1. That on March 19, 1991, the Claimant was injured as a result of a traffic accident. The incident occurred at 1200 West 69th Street, Chicago, Illinois. Police investigation revealed that the Claimant was attempting to cross the street when she was struck by a car. The driver of the vehicle fled from the scene and has not been apprehended by the police.

2. That in order for a claimant to be eligible for compensation under the Act, there must be evidence that one of the violent crimes specifically set forth under section 72(c) of the Act occurred.

3. That "crime of violence" as specified in section 72(c) of the Act does not include any other offense or accident involving a motor vehicle except reckless homicide and driving under the influence of intoxicating liquor or narcotic drugs.

4. That the issues presented to the Court are (1) whether the Claimant's injury that was caused by the offender's operation of a motor vehicle is compensable under section 72(c) of the Act and (2) whether the fact that the offender fled the scene of the incident has an effect on the Claimant's eligibility for compensation under the Act.

5. That, as the Court stated in *In re Hansen* (1980), 34 Ill. Ct. Cl. 401,

"The Court has uniformly taken the position that the Illinois Crime Victims Compensation Act is not applicable to unintentional motor vehicle offenses, as not being a 'crime of violence' within §2(c) thereof."

See also *In re Desir* (1980), 34 Ill. Ct. Cl. 391; *In re Stevens* (1976), 31 Ill. Ct. Cl. 710.

6. That the Court has also recognized that while a hit and run accident is a crime, it is not one of the crimes specifically enumerated in the Act as being the basis of a claim under the Act. *In re Viscarrondo* (1980), 34 Ill. Ct. Cl. 402.

7. That this claim does not meet a required condition precedent for compensation under the Act.

It is hereby ordered that this claim be, and is hereby denied.

## OPINION

MONTANA, C.J.

The Claimant, Brenda J. Catron, seeks compensation pursuant to provisions of the Crime Victims Compensation Act, hereafter referred to as the Act. (Ill. Rev. Stat. 1989, ch. 70, par. 71 *et seq.*) The claim arises as a result of an incident which occurred on March 19, 1991, wherein the Claimant was injured.

The investigation by the office of the Attorney General revealed that Claimant was injured as the result of a traffic accident at 1200 West 69th Street in Chicago, Illinois. While attempting to cross the street, Claimant was struck by a vehicle. The driver of the vehicle fled the scene and has not been apprehended by police. Based on the results of that investigation, the Court entered an

order on January 29, 1992, which found Claimant to be ineligible because an incident of hit and run is not an offense included in or specifically enumerated in section 72(c) of the Act.

On March 13, 1992, Claimant requested a review of the Court's findings. The matter was set for hearing before Commissioner Elizabeth M. Rochford on June 19, 1992. At that hearing, Claimant did not contest any of the facts as presented by the office of the Attorney General, but made a statement on the unfairness of the situation.

The issue before this Court is whether Claimant can be compensated pursuant to the Act for injuries she sustained when she was struck by an automobile by an unknown offender.

Claimant is only eligible for compensation under the Act where there is evidence of one of the violent crimes specifically set forth under section 2(c) of the Act. The Court has recognized that while a hit and run accident is a crime, it is not one of the crimes specifically enumerated in the Act as being the basis of a valid claim. ***(In re Application*** of ***Viscarrondo*** (1980), 34 Ill. Ct. Cl. 402.) The term "crime of violence" as specified in section 2(c) of the Act does not include any other offense or accident involving a motor vehicle except reckless homicide and driving under the influence of intoxicating liquor or narcotic drugs. ***In re Application*** of ***Wilcox*** (1988), 41 Ill. Ct. Cl. 339,340.

This Court has uniformly taken the position that the Act is not applicable to unintentional motor vehicle offenses, as they are not considered "crime[s] of violence" within section 2(c) of the Act. ***Wilcox, supra,*** at 340-41. ***In re Application*** of ***Hansen*** (1980), 34 Ill. Ct. Cl. 401; ***In re Application*** of ***Desir*** (1980), 34 Ill. Ct. Cl. 391; ***In re***

*Application of Stevens* (1976), **31** Ill. Ct. Cl. 710.

We find that the Claimant has failed to meet a required condition precedent for compensation under the Act. It is therefore hereby ordered that this claim be, **and** is, hereby denied.

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(No. 92-CV-0790—Claimant awarded $3,000.)

*In re* **APPLICATION OF BETTY JONES JOHNSON**

Opinionfiled *March* **24,** *1992.*

***Orderfiled November*** 17,1592.

BETTY JONES JOHNSON, *pro se,* for Claimant,

ROLAND **W.** BURRIS, Attorney General **(CHARLES** A. DAVIS, JR., Assistant Attorney General, of counsel), for Respondent.

CRIME VICTIMS COMPENSATION ACT—*purpose* of *Act—compensation for pecuniary loss.* The Crime Victims Compensation Act was enacted by the legislature **to** aid and assist crime victims under certain circumstances to receive compensation to help pay for the pecuniary loss sustained by victims, and, in the case of death, pecuniary loss is defined **as** funeral and burial expenses to a maximum of $3,000 and **loss of** support of the dependents of the victim.

SAME—*funeral and burial expenses—Court could not award more than statutoy maximum—award grunted.* Although the Claimant repeatedly rejected **as** insufficient the $3,000 maximum award for her murdered son's funeral and burial expenses which the Court of Claims granted because the son was an innocent victim of violent crime, the Court could not award more than the statutory maximum for such expenses, and the award was affirmed with directions to close the case if the $3,000 sum was once again rejected by the Claimant.

## OPINION

MONTANA, C.J.

This claim **arises** out of an incident that occurred on

August 1, 1991. Betty Jones Johnson, mother of the deceased victim, Darryl C. Jones, seeks compensation pursuant to the provisions of the Crime Victims Compensation Act, hereafter referred to as the Act. Ill. Rev. Stat. 1989, ch. 70, par. 71 *et seq.*

This Court has carefully considered the application for benefits submitted on October 18, 1991, on the form prescribed by the Attorney General, and an investigatory report of the Attorney General of Illinois which substantiates matters set forth in the application. Based upon these documents and other evidence submitted to the Court, the Court finds:

1. That on August 1, 1991, the Claimant's deceased son, Darryl C. Jones, age 18, was a victim of a violent crime as defined in section 72(c) of the Act, to wit, first degree murder (Ill. Rev. Stat. 1989, ch. 38, par. 9—1).

2. That the crime occurred in Chicago, Illinois, and all of the eligibility requirements of section 76.1 of the Act have been met.

3. That the Claimant seeks compensation for funeral and burial expenses.

4. That the Claimant incurred funeral and burial expenses in the amount of $3,393, all of which has been paid. Pursuant to section 72(h) of the Act, funeral and burial expenses are compensable to a maximum amount of $3,000.

5. That the Claimant has received no reimbursements that can be counted as an applicable deduction under section 80.1(e) of the Act.

6. That the Claimant has complied with all pertinent provisions of the Act and qualifies for compensation thereunder.

It is hereby ordered that the sum of $3,000 be and is hereby awarded to Betty Jones Johnson, mother of Darryl C. Jones, an innocent victim of a violent crime.

ORDER

**MONTANA,** C.J.

This claim arises as a result of the murder of Darryl Jones on August 1,1992. The mother of the deceased victim seeks compensation pursuant to the provisions of the Crime Victims Compensation Act, hereinafter referred to as the Act. Ill. Rev. Stat. 1987, ch. 70, par. 71 *et seq.*

The Attorney General's Office, after conducting an investigation of the case, concluded that Darryl Jones was the victim of a violent crime and that Claimant was eligible for compensation pursuant to the Act.

The Court made an award to Claimant in the amount of $3,000, the maximum statutory award for funeral and burial expenses, on March 24,1992.

On April 17, 1992, Claimant rejected the award by returning the check to Governor Edgar and stating by letter that the amount awarded was an inadequate sum to compensate her for the loss of her son.

On April 29, 1992, Diane Ford, counsel to the Governor, responded by letter to Claimant. Ms. Ford attempted to explain the purpose and limitations of the Act and encouraged Claimant to accept the award as compensation for the funeral expenses she incurred.

On May 12, 1992, Claimant refused the award a second time by returning it to the clerk of the Court of Claims.

The claim was assigned to Commissioner Rochford

on April 23, 1992, and set for hearing on June 18, 1992. On June 18, 1992, Claimant appeared. Claimant repeatedly refused to accept the $3,000 award (Transcript pages 3, 5-8). Claimant stated that she was seeking a larger award and that in the absence of a larger sum of money she would continue to refuse the award.

The Crime Victims Compensation Act was enacted by the legislature to aid and assist crime victims under certain circumstances to receive compensation to help pay for the *pecuniary losses* sustained by victims. *(In re Application of Hutcherson* (1985), 37 Ill. Ct. Cl. 491, 492.) In the case of death, pecuniary loss is defined as follows:

"* * "funeral and burial expenses to a maximum of $3,000.00 and loss of support of the dependents of the victim." (Ill. Rev. Stat., ch. 70, par. 72 (2)(h).)

The evidence supports the Court's prior award to Claimant in the amount of $3,000, the maximum statutory award for funeral expenses pursuant to the provisions of the Act.

The Court is not unsympathetic to the Claimant's loss of her son. The Court agrees that the prior award is not adequate compensation for such a loss. However, the award is not for the loss of the son. The Act was not intended to provide such compensation. The purpose of the Act was to provide, in this case, compensation for the out-of-pocket expenses associated with the funeral and burial. The Court can award no more money than the Act allows.

It is hereby ordered that the prior order of the Court awarding Claimant $3,000 for funeral and burial expenses be, and hereby is, affirmed; it is further ordered that if the Claimant returns the warrant issued in payment of the award one more time the clerks office is directed to

cancel the warrant for redeposit and forever close the file on this case.

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(No. 92-CV-1707—Claimant awarded $1,371.95; Christ Hospital awarded $1,250.)

*In re* APPLICATION OF MARABIA CLARK

*Opinion filed October 5, 1992.*

*Opinion filed May* **13, 1993.**

MARABIA CLARK, *pro se,* for Claimant.

ROLAND **W.** BURRIS, Attorney General **(CHARLES A.** DAVIS, JR., Assistant Attorney General, of counsel), for Respondent.

CRIME VICTIMS COMPENSATION ACT—*violent crime—award for funeral and hospital expenses allowed—claim for catering costs after funeral service denied.* Where the Claimant's son was a victim of first degree murder, her claim seeking compensation for funeral expenses and for hospital expenses incurred prior to the victim's death was allowed, with the Court ordering that payment of the outstanding hospital bill be made directly to the provider hospital, but the Claimant's request to recover the cost of a catered reception held after her son's funeral was denied, since the catering went beyond what is regularly considered a funeral expense.

## OPINION

SOMMER, J.

This claim arises out of an incident that occurred on November 20, 1991. Marabia Clark, mother of the deceased victim, Kahil Cuyler, seeks compensation pursuant to the provisions of the Crime Victims Compensation Act, hereafter referred to as the Act. Ill. Rev. Stat. 1989, ch. 70, par. 71 et *seq.*

This Court has carefully considered the application for benefits submitted on February 20, 1992, on the form

prescribed by the Attorney General, and an investigatory report of the Attorney General of Illinois which substantiates matters set forth in the application. Based upon these documents and other evidence submitted to the Court, the Court finds:

1. That on November 20, 1991, the Claimant's deceased son, Kahil Cuyler, age 18, was a victim of a violent crime as defined in section 72(c) of the Act, to wit, first degree murder (Ill. Rev. Stat. 1989, ch. 38, par. 9—1).

2. That the crime occurred in Chicago, Illinois, and all of the eligibility requirements of section 76.1 of the Act have been met.

3. That the Claimant seeks compensation for funeral expenses and for medical/hospital expenses incurred prior to the victim's death.

4. That pursuant to section 80.1(c) of the Act, a person related to the victim may be compensated for funeral, medical and hospital expenses of the victim to the extent to which he has paid or become obligated to pay such expenses.

5. That the Claimant incurred funeral expenses in the amount of $1,317.95, all of which has been paid.

6. That after considering insurance and other sources of recovery, the Claimant's net compensable loss for medical/hospital expenses is $1,250. Although the Claimant has paid nothing towards this balance, she is obligated to pay the entire amount.

7. That the Claimant has received no reimbursements that can be counted as an applicable deduction under section 80.1(e) of the Act.

8. That the Claimant's net loss can be determined on the following:

| | Compensable Amount |
|---|---|
| Christ Hospital | $1,250.00 |
| Paid Funeral Expenses | 1,371.95 |
| Total | $2,621.95 |

9. That the Claimant has complied with all pertinent provisions of the Act and qualifies for compensation thereunder.

10. That on July 6, 1992, Christ Hospital filed a hospital lien with the Illinois Court of Claims concerning the victim's outstanding hospital expense. The Court orders direct payment be made to the hospital in the instant case.

It is hereby ordered that the surn of $1,371.95 be and is hereby awarded to Marabia Clark, mother of Kahil Cuyler, an innocent victim of a violent crime.

It is further ordered that the sum of $1,250 be and is hereby awarded to Christ Hospital for the hospital expenses incurred by the Claimant, Marabia Clark.

## OPINION

SOMMER, C.J

At the request of the Claimant, a hearing on the above entitled claim under the Crime Victims Compensation Act was held on March 12, 1993, before Commissioner Griffin.

The Claimant, Marabia Clark, appeared *pro se.* Roland W. Burris, Attorney General, by Charles Davis, Assistant Attorney General, appeared on behalf of the Respondent, State of Illinois.

On October 5, 1992, the Claimant was awarded the

sum of **$1,250** for hospital expenses and the sum of **$1,371.95** for funeral expenses. The compensation arose from the death of her son, Kahil Cuyler, age **18,** who was **a** victim of a violent crime. After the funeral of the decedent, the Claimant held a catered reception for those attending the memorial service and now seeks to recover the cost of the catered service, claiming it as part of a traditional funeral.

The Court finds that a catered reception with food and drink is beyond what is regularly considered as funeral expenses under the Crime Victims Compensation Act and that there would have to be a provision in the Act allowing for payment of such. The Attorney General takes the position and we find that there is no provision in the Act allowing for payment of a catered reception with food and drink provided to those attending the services.

It is therefore ordered that the Claimant's request for additional compensation is denied, and this Claim is dismissed.

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(No. ***92-CV-2002—Claim*** denied.)

*In* ***re*** **APPLICATION OF** ELNORA **CAMP**

***Orderfiled September*** *2,1992.*

***Opinionfiled March*** *30, 1993.*

ELNORA CAMP, ***pro se,*** for Claimant.

ROLAND W. BURRIS, Attorney General (CHARLES A. **DAVIS,** JR., Assistant Attorney General, of counsel), for Respondent.

***CRIME VICTIMS COMPENSATION*** ACT—*condition* ***precedent to recovery—victim's conduct may not substantially contribute to his injuries or***

***death.*** **A** person filing a claim for compensation under the Crime Victims Compensation Act is not entitled to compensation if the victim's injuries or death were substantially attributable to the victim's own wrongful acts or were substantially provoked by the victim.

SAME—*victim* ***engaged in shoot-out with rival gang*** *members*—*claim* ***for funeral expenses denied.*** **A** claim filed by the aunt of a murder victim seeking reimbursement for the man's funeral expenses was denied because the victim, who was engaged in a shoot-out with rival gang members at the time of his death, directly and substantially contributed to **his** death.

ORDER

FREDERICK, J.

This claim arises out of an incident that occurred on December 30, 1991. Elnora Camp, aunt of the deceased victim, Anthony James Young, seeks compensation pursuant to the provisions of the Crime Victims Compensation Act, hereafter referred to as the Act. Ill. Rev. Stat. 1989, ch. 70, par. 71 ***et seq.***

This Court has carefully considered the application for benefits submitted on March 31, 1992, on the form prescribed by the Attorney General, and an investigatory report of the Attorney General of Illinois which substantiates matters set forth in the application. Based upon these documents and other evidence submitted to the Court, the Court finds:

1. That on December 30, 1991, the victim was shot by the alleged offender. The incident occurred near 900 South Pulaski, Chicago, Illinois. Police investigation revealed that the victim, armed with an Uzi machine gun, began shooting at rival street gang members. During the exchange of gunfire between the rival street gang members, the victim was shot by the alleged offender. The alleged offender has been apprehended and charged with first degree murder. The criminal proceedings against him are currently pending.

2. That section 80.1 of the Act indicates factors used to determine entitlement to compensation. Specifically, section 80.1(d) of the Act states that an award shall be reduced or denied according to the extent to which the victim's acts or conduct provoked or contributed to his injury or death, or to the extent to which any prior criminal conviction or conduct of the victim may have directly or indirectly contributed to the injury or death of the victim.

3. That it appears from the investigatory report and the police report that the victim was armed with an Uzi machine gun and began shooting at rival street gang members. During the exchange of gunfire, he was shot by the alleged offender.

**4.** That the victim's conduct contributed to his death to such an extent as to warrant that the Claimant be denied entitlement to compensation.

***5.*** That this claim does not meet a required condition precedent for compensation under the Act.

It is hereby ordered that this claim be, and is, hereby denied.

OPINION

**FREDERICK,** J.

On March 31, 1992, Elnora Camp, aunt of the deceased victim, filed her application pursuant to the Crime Victims Compensation Act seeking reimbursement for the funeral bill of Anthony James Young. Ill. Rev. Stat. 1989, ch. 70, par. 71 ***et seq.***

This Court considered the application and the investigatory report of the Attorney General and denied the claim in an order entered on September 2, 1992. On September 23, 1992, Claimant filed a request for hearing.

From the reports and evidence, it appears that decedent, Anthony James Young, was shot in the back of the head and killed on December 30, 1991, in a gang shoot-out. The reports indicate the decedent, also known as "Paws," had an Uzi-type weapon and was firing same. He was shot by a rival gang member who was behind him and on a roof during the shoot-out. Several witnesses to the shooting gave statements that the decedent had such a weapon in his possession when he was shot. A person filing a claim for compensation under the Crime Victims Compensation Act is not entitled to compensation if the victim's injuries or death were substantially attributable to the victim's own wrongful act or substantially provoked by the victim. In *re Application of William* (1987), 39 Ill. Ct. Cl. 321.

The overwhelming evidence before the Court is that the decedent received a weapon from a gang member known as Karate Joe. Karate Joe had told the victim and others to go shoot some Xs, being members of a rival gang. The victim ran out into the street, shooting, but did not see the rival gang members on the roof behind him. A man and his wife who were coming from the laundromat saw the victim lying on the street after observing gunfire in the area. The victim was lying face down. An Uzi-type weapon was lying right next to the victim's right hand. Several other male teenagers grabbed the weapon and ran away.

This claim does not meet a required condition precedent for compensation under the Act as the conduct of the victim directly and substantially contributed to his death. As tragic as this death may be, we are constrained by law to affirm our prior ruling and deny this claim.

# CRIME VICTIMS COMPENSATION ACT
# OPINIONS NOT PUBLISHED IN FULL

## FY 1993

| | | |
|---|---|---|
| 81-CV-0581 | Loftin, Robert | Reconsidered Dismissal |
| 82-CV-0529 | Worker, Darrell **L.** | 2,559.75 |
| 82-CV-0606 | De Sanchez, Galdina Galindo | 200.00 |
| 82-CV-0607 | De Sanchez, Galdina Galindo | 200.00 |
| 82-CV-0608 | De Sanchez, Galdina Galindo | 200.00 |
| 82-CV-0609 | De Sanchez, Galdina Galindo | 200.00 |
| 84-CV-0118 | Paniagua, Jose | 1,419.00 |
| 84-CV-0135 | Vasquez, Ann | 95.00 |
| 84-CV-1015 | Williams, Scott E. | Dismissed |
| 84-CV-1242 | Buckley, Mary W. | Dismissed |
| 85-CV-0112 | Watkins, Julia | 685.20 |
| 85-CV-0124 | Korvin, Henry | 619.64 |
| 85-CV-0498 | Cardwell, Stephen G. | 1,981.65 |
| 85-CV-0510 | Rodriguez, Sandra | Reconsidered Dismissal |
| 85-CV-0773 | Winder, Laneer | Reconsidered Denial |
| 85-CV-0882 | Green, Larnell | Reconsidered Dismissal |
| 85-CV-1009 | Maloney, James Michael | 193.47 |
| 85-CV-1021 | Tchoryk, Michal | Reconsidered Dismissd |
| 85-CV-1046 | Tackes, Roseann | 8,823.39 |
| 85-CV-1085 | Vasquez, Jose | Dismissed |
| 86-CV-0041 | Isett, Evelyn M. | Dismissed |
| 86-CV-0309 | Sztrugulewski, Mary | 6,100.00 |
| 86-CV-0654 | Wilburn, Kim Denise | 575.00 |
| 86-cv-0701 | Coleman, Darnell | Denied |
| 86-CV-0749 | Connor, Theresa | 5,897.15 |
| 86-cv-0787 | **Knox,** Jean M. | Denied |
| 86-CV-0953 | Rohrman, Douglas **F.** | 5,161.98 |
| 86-CV-0996 | Medina, Rosa | 1,081.00 |
| 86-CV-1042 | Balch, James W. | 2,310.30 |
| 86-CV-1204 | Lukaszewski, Douglas S. | Reconsidered Denial |
| 86-CV-1312 | Kelly, Michael J. | 5,120.00 |
| 86-CV-1390 | Hatlas, Maria | 783.29 |
| 86-CV-1398 | Ferguson, Leonard B. | Dismissed |
| 86-CV-1399 | Jackson, Marvin Miller, Jr. | Dismissed |
| 87-CV-0090 | Cruz, Angel M. | 1,550.00 |

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|---|---|---|
| 87-CV-0126 | Ordones, Joel | Denied |
| 87-CV-0150 | Juette, Cleo | Reconsidered Dismissal |
| 87-CV-0231 | Perry, James, Sr. | Denied |
| 87-CV-0245 | Rubalcaba, Leobardo | 100.00 |
| 87-CV-0322 | Norah, Betty M. | Denied |
| 87-CV-0348 | White, Dorothy M. | Dismissed |
| 87-CV-0463 | McGovern, Thomas A., Jr. | Denied |
| 87-CV-0489 | Cutshaw, Patricia | 30.00 |
| 87-CV-0580 | Huaracha, Daniel | Denied |
| 87-CV-0592 | Vollstedt, Harry, Jr. | 4,429.00 |
| 87-CV-0605 | Schavrien, Judy E. | 12,618.40 |
| 87-CV-0694 | Kelsey, Donna Maria | 3,190.68 |
| 87-CV-0759 | Marcu, Sorah Pamela. | 4,280.00 |
| 87-CV-0828 | Boyle, Brian | Denied |
| 87-CV-0833 | Hilligoss, Sandra L. | Reconsidered Dismissal |
| 87-CV-0840 | Shaba, Amar | Denied |
| 87-CV-0852 | Silva, Fidel | Denied |
| 87-CV-0857 | Atkins, Earline | 4,327.23 |
| 87-CV-0861 | Hinkle, Lynn | Denied |
| 87-CV-0865 | Wayne, Arnold E. | Denied |
| 87-CV-0875 | Thigpen, Douglas | Reconsidered Dismissal |
| 87-CV-0956 | Barszcz, Janina & Elzbeta | 25,000.00 |
| 87-CV-1048 | Zielinski, Lynnette A. | Denied |
| 87-CV-1067 | Cheney, Valerie A. | Denied |
| 87-CV-1122 | Simmons, Doris J. | 563.80 |
| 87-CV-1124 | Turner, Robert R. | Dismissed |
| 87-CV-1162 | Dadoly, Roger F. | 1,715.00 |
| 87-CV-1165 | Marino, Mary Lou | Reconsidered Dismissal |
| 87-CV-1179 | Mooney, Pauline | 6,200.35 |
| 87-CV-1201 | Stollmayer, Nikolaus | 1,133.14 |
| 87-CV-1228 | Zolnierczyki, John | Dismissed |
| 87-CV-1353 | Kuenster, William M. | Dismissed |
| 87-CV-1356 | Cooley, Johnny Lee | 1,759.00 |
| 87-CV-1371 | Gilmore, Nebraska | 1,500.00 |
| 87-CV-1424 | Black, Thomas | Dismissed |
| 87-CV-1427 | Freeman, Sharon | Dismissed |
| 88-CV-0007 | Mumbower, David G. | Denied |
| 88-CV-0023 | Gober, Betty | Reconsidered Dismissal |
| 88-CV-0083 | Moldovan, Ileana | 5,000.00 |
| 88-CV-0088 | Baskin, John | Denied |
| 88-CV-0089 | Bums, Donald R. | Reconsidered Denial |

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|---|---|---|
| 88-CV-0108 | Zegar, Sabri | 675.00 |
| 88-CV-0115 | Lee, William T. | Reconsidered Dismissal |
| 88-CV-0136 | Fleming, Estell | Denied |
| 88-CV-0139 | Mick, Dorothy | 327.62 |
| 88-CV-0167 | Ham, Jung Ja | 142.00 |
| 88-cv-0180 | Whirl, Myltheree | Reconsidered Dismissal |
| 88-cv-0196 | Robinson, Roberta | 953.00 |
| 88-CV-0207 | Altine, Cheryl K. | 3,305.00 |
| 88-CV-0216 | Amirtha, Lingam V. | Denied |
| 88-CV-0221 | Drobilek, Jeffrey J. | Denied |
| 88-CV-0230 | Saunders, Cleveland | 1.44 |
| 88-cv-0260 | Guy, Robert | Reconsidered Dismissal |
| 88-CV-0264 | McNair, Nancy | Dismissed |
| 88-CV-0301 | Hester, William | Denied |
| 88-CV-0306 | Moore, Eddie D. | Dismissed |
| 88-cv-0323 | Borchers, Allison M. | Denied |
| 88-cv-0324 | Brock, Michael A. | 14,963.10 |
| 88-cv-0334 | McGee, Rufus Odell | Reconsidered Dismissal |
| 88-cv-0364 | Grubbs, Chris A. | Denied |
| 88-CV-0365 | Grubbs, James R. | Denied |
| 88-CV-0366 | Grubbs, Roy J. | Dismissed |
| 88-CV-0376 | Sabin, David Lee | Denied |
| 88-CV-0378 | Smith, Raymond D. | Dismissed |
| 88-cv-0379 | Swist, Krzystztof | Denied |
| 88-cv-0392 | Austin, Denise E. | Denied |
| 88-CV-0436 | Oaks, Thomas S. | Reconsidered Dismissal |
| 88-CV-0438 | Parks, David L. | Dismissed |
| 88-CV-0451 | Sanchez, Jose D. | Denied |
| 88-CV-0459 | White, Debra | Reconsidered Dismissal |
| 88-CV-0541 | Beechick, Georgene N. | Denied |
| 88-CV-0545 | Clark, Lemon, Jr. | Denied |
| 88-cv-0548 | Dzialo, Mitchell E. | Dismissed |
| 88-cv-0596 | Williams, Stanley J. | 2,771.79 |
| 88-cv-0600 | Darnell, Mark | 732.00 |
| 88-cv-0602 | Hargis, Debbie | 20,096.89 |
| 88-cv-0619 | Stover, Shawn A. | , Dismissed |
| 88-CV-0621 | Yum, Mimi | Denied |
| 88-cv-0622 | Archer, Peter | Denied |
| 88-CV-0634 | Preston, Karen E. | Dismissed |
| 88-CV-0635 | Reed, Torrence | Reconsidered Dismissal |
| 88-cv-0668 | Mathew, George P. | Dismissed |

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|---|---|---|
| 88-CV-0671 | Christodoulou, Stephan | Denied |
| 88-CV-0672 | Thompson, Robert | Reconsidered Denial |
| 88-CV-0684 | Manduch, Susan E. | Denied |
| 88-CV-0687 | Ozaeta, Vilma Iris | Denied |
| 88-CV-0689 | Slater, Wendell | 3,449.00 |
| 88-CV-0692 | Harrington, **Larry** | 12,500.00 |
| 88-CV-0693 | Herb, Eric | Dismissed |
| 88-CV-0696 | O'Rourke, Sheila Margaret | Dismissed |
| 88-CV-0699 | Warren, Rosie | 15,000.00 |
| 88-CV-0700 | Weiss, Arthur E. | Denied |
| 88-CV-0711 | Kennedy, Richard ***C.*** | Denied |
| 88-CV-0724 | Berry, Madeline | 3,882.58 |
| 88-CV-0725 | Bridgmon, Thomas, Jr. | Dismissed |
| 88-CV-0727 | Chatman, Ramon T. | Denied |
| 88-CV-0728 | Clough, Douglas M. | Dismissed |
| 88-CV-0729 | Colosimo, Joseph G. | Dismissed |
| 88-CV-0730 | Cygan, Richard B. | 13,809.61 |
| 88-cv-0735 | Edwards, Thais | Dismissed |
| 88-CV-0736 | Owens, Timothy | Denied |
| 88-CV-0743 | Scott, Sylvester | Denied |
| 88-CV-0744 | Sharif, Baseemah | Denied |
| 88-CV-0745 | Saliba, Edward | Denied |
| 88-CV-0752 | Foster, Barbara | Dismissed |
| 88-CV-0756 | Johnson, Michael A. | 1,056.81 |
| 88-CV-0766 | McBride, Valerie | Denied |
| 88-cv-0771 | Thomas, Pearl | Denied |
| 88-CV-0776 | Willis, Eldrina | Dismissed |
| 88-CV-0783 | Nicholson, Wilma | Denied |
| 88-CV-0784 | Nicholson, Wilma | Denied |
| 88-CV-0785 | Nicholson, Wilma | Denied |
| 88-CV-0786 | Nicholson, Wilma | Denied |
| 88-CV-0788 | Parrish, Kenneth W. | 359.74 |
| 88-cv-0794 | Asa-Asamoah, Stephen | Denied |
| 88-CV-0798 | Briones, Ramona | 392.50 |
| 88-CV-0802 | Carranco, Alfonso | 1,400.00 |
| 88-CV-0805 | Coleman, Angela A. | Denied |
| 88-CV-0806 | Cooper, Bobby J. | 25,000.00 |
| 88-CV-0812 | Dykes, Eugene **H.** | 426.00 |
| 88-CV-0815 | Jinkins, Ronald | Denied |
| 88-CV-0827 | Murphy, Russell D. | 24,439.90 |
| 88-CV-0832 | Favero, Janelle M. | Denied |

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|---|---|---|
| 88-cv-0838 | Pruitt, Timothy C. | 966.48 |
| 88-CV-0841 | Ricks, Loretta | 2,532.35 |
| 88-CV-0844 | Schwab, William A. | Denied |
| 88-CV-0848 | Folwer, Beverly | 1,176.32 |
| 88-cv-0850 | Hodge, Sharon L. | Denied |
| 88-CV-0858 | Seng, Michael D. | Denied |
| 88-CV-0859 | Jones, Edna J. | Dismissed |
| 88-cv-0862 | Harland, Donald | 459.71 |
| 88-cv-0865 | Johnson, Evelyn L. | Denied |
| 88-CV-0867 | Kendrick, Cynthia J. | 877.90 |
| 88-cv-0870 | Marsh, Charles C., II | Denied |
| 88-cv-0871 | Martin, Franklin S. | Dismissed |
| 88-cv-0874 | Padilla, Donald P. | 2,000.00 |
| 88-cv-0877 | Schisler, Pamela Jill | 270.96 |
| 88-cv-0881 | Tate, Mary | 2,000.00 |
| 88-cv-0885 | Colamonico, Sandra | Denied |
| 88-cv-0888 | Flesch, Patsy M. | 25.00 |
| 88-cv-0900 | Wilson, Lee | 10,947.84 |
| 88-cv-0905 | Vogler, Lori A. | Dismissed |
| 88-CV-0906 | Walker, Renee J. | Denied |
| 88-CV-0907 | Washington, Mary Ann | 25,000.00 |
| 88-CV-0917 | Huntley, Georgia | Denied |
| 88-CV-0923 | Aguilar, Carolina | Denied |
| 88-CV-0925 | Gillingham, Robert H. | Denied |
| 88-CV-0927 | Williams, Kassinger | 2,000.00 |
| 88-CV-0930 | Nellum, Ernest A. | Dismissed |
| 88-CV-0940 | Canada, Pamela | Dismissed |
| 88-cv-0943 | Fahey, Charles | Dismissed |
| 88-CV-0971 | Cahel, Frank | Denied |
| 88-cv-0974 | Terry, Jeffrey S. | Reconsidered Dismissal |
| 88-CV-0975 | Villanueva, Darlene | 1,764.50 |
| 88-cv-0977 | White, Jearl | 40.70 |
| 88-CV-0989 | Vaziri, Dariush | Dismissed |
| 88-CV-1002 | Bankhead, Charles | Dismissed |
| 88-CV-1006 | Milan, Robert J. | 1,530.20 |
| 88-cv-1009 | Philbin, Mickey | 5,145.38 |
| 88-CV-1014 | Bramlet, Dennis K. | Dismissed |
| 88-cv-1016 | Burton, George | Denied |
| 88-cv-1026 | Jones, Demriss | Dismissed |
| 88-CV-1030 | Loscuito, Antonina M. | 577.40 |
| 88-CV-1031 | Monroy, Humberto | Denied |

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|---|---|---|
| 88-CV-1034 | Ratajczak, Roger W. | Denied |
| 88-CV-1036 | Seebold, Otto Paul, Sr. | 8,353.90 |
| 88-CV-1040 | Tokarski, Anna | 2,925.75 |
| 88-CV-1041 | Townsend, Algie Lee | 1,248.55 |
| 88-CV-1042 | Curtis-Whitte, Elizabeth | Dismissed |
| 88-CV-1044 | Wilson, Flora D. | . 424.66 |
| 88-CV-1048 | Bezroukoff, Geraldine K. | Dismissed |
| 88-CV-1055 | Johnson, Steven | Denied |
| 88-CV-1060 | Price, Richard A. | Reconsidered Dismissal |
| 88-CV-1066 | Steele, Darrell | 275.00 |
| 88-CV-1069 | Weber, Christine Ann | 25,000.00 |
| 88-CV-1071 | Wincek, Donna | Dismissed |
| 88-CV-1080 | Holmes, Willie | Denied |
| 88-CV-1083 | Madrigal, Juan L. | Dismissed |
| 88-CV-1084 | Marcangelo, Jo Ann | Dismissed |
| 88-CV-1085 | Milewska, Aniela | 174.90 |
| 88-CV-1087 | Myles, Lenard | Denied |
| 88-CV-1088 | Knoche, Patricia | Denied |
| 88-cv-1091 | Rogers, Ernestine | Denied |
| 88-CV-1093 | Shustitsky, Rita | Denied |
| 88-CV-1097 | Fink, Gloria | Denied |
| 88-cv-1101 | Loewe, Elizabeth A. | 7,605.81 |
| 88-CV-1105 | Ruiz, Fernando L. | Denied |
| 88-CV-1112 | Cravens, Robin | Denied |
| 88-CV-1113 | Flores, Salvador | 1,120.40 |
| 88-CV-1118 | Owens, Mattielean | 2,000.00 |
| 88-CV-1120 | Ross, Darryl E. | Denied |
| 88-CV-1124 | Edwards, Allen | Dismissed |
| 88-CV-1125 | Green, Gevonini | Denied |
| 88-CV-1126 | Herrera, Jose J. | Denied |
| 88-CV-1132 | Vivar, Marinia | Denied |
| 88-CV-1134 | Williams, Alberteen | Denied |
| 89-CV-0020 | Mundie, Donna Robertson | Denied |
| 89-CV-0021 | Panzica, Anthony N. | Dismissed |
| 89-CV-0039 | Lange, Brenda C. | Denied |
| 89-CV-0040 | Lange, Brenda C. | Denied |
| 89-CV-0056 | Lupe, Laura M. | Denied |
| 89-CV-0072 | Baker, Emma | Denied |
| 89-CV-0077 | Fondren, Clarence Y. | 1,039.09 |
| 89-CV-0079 | Harker, Debra A. | 3,789.06 |
| 89-CV-0094 | Fulks, Thomas | 25,000.00 |

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|---|---|---|
| 89-CV-0646 | Higgs, Priscilla | Denied |
| 89-CV-0668 | McBride, Cheryl | Denied |
| 89-CV-0705 | Cage, Lorraine **E.** | 3,000.00 |
| 89-CV-0707 | Castro, Elid | Dismissed |
| 89-CV-0743 | Perry, Glenn | Denied |
| 89-CV-0753 | Dorsey, Larry | Denied |
| 89-CV-0760 | McDonald, Bonnie | Reconsidered Dismissal |
| 89-CV-0766 | Tomborwicz, Grazyna | Denied |
| 89-cv-0769 | Alcorn, Darrell W. | Denied |
| 89-cv-0775 | Barkdoll, Vicki D. | 25,000.00 |
| 89-cv-0785 | Segal, Etyen | 300.00 |
| 89-CV-0807 | Tzquierdo, Cesar A. | Denied |
| 89-CV-0851 | Mikulec, Stella | Denied |
| 89-cv-0936 | Hunter, Reginald B. | Denied |
| 89-CV-0938 | Martinez, Josephine | 1,175.00 |
| 89-cv-0943 | Watts, Celia M. Gistand | 179.76 |
| 89-CV-0947 | Hall, William | 5,275.15 |
| 89-cv-0953 | Meidroth, Kathy | 885.00 |
| 89-cv-0967 | Dodson, Doris Mae | Dismissed |
| 89-cv-0975 | Stratton, R. S. | Dismissed |
| 89-CV-1004 | St. John, Mary Katherine | 3,000.00 |
| 89-CV-1013 | Marin, Maria | 4,925.00 |
| 89-cv-1016 | Anderson, Theresa M. | Dismissed |
| 89-CV-1041 | Rodriguez, Juvenal Lopez | Reconsidered Dismissal |
| 89-CV-1043 | Sutton, Percy | 3,000.00 |
| 89-cv-1085 | Cunegin, Ralph L. | Denied |
| 89-cv-1110 | Williams, Dorrie | Reconsidered Denial |
| 89-CV-1117 | Freeman, Darwin R. | Denied |
| 89-CV-1153 | Ball, Derrick | 25,000.00 |
| 89-CV-1156 | Flowers, Brian **E.** | Dismissed |
| 89-CV-1164 | Krokocki, Betty L. | 1,138.14 |
| 89-CV-1165 | Marble, Bobbie Hunter | Denied |
| 89-CV-1168 | Parker, William G. | 1,311.94 |
| 89-CV-1192 | Aguilar, Raul Garza | 16,17000 |
| 89-cv-1193 | Grigalunas, Albert J. | 25,000.00 |
| 89-CV-1216 | Wright, Freida | Dismissed |
| 89-CV-1221 | Cacioppo, Lois **Ann** | 1,713.00 |
| 89-cv-1263 | Bolen, Kathryn | Dismissed |
| 89-cv-1265 | Cherry, Roland | Denied |
| 89-CV-1266 | Fritchie, Barbara G. | 382.44 |
| 89-CV-1285 | Wright, Connie | 608.44 |

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|---|---|---|
| 89-cv-0109 | Regan, Virginia T. | Denied |
| 89-CV-0120 | Skora, Genowefa | 291.50 |
| 89-CV-0121 | Smith, Brian K. | Dismissed |
| 89-CV-0144 | Marshall, Pearl | 423.00 |
| 89-CV-0148 | Soblewski, Mark M. | Denied |
| 89-CV-0169 | Carpenter, Mary L. | Reconsidered Denial |
| 89-CV-0177 | Petit, Jean M. | 1,640.00 |
| 89-CV-0220 | Davis, Glenn | 25,000.00 |
| 89-CV-0236 | Surber, Patrick | 4,211.00 |
| 89-CV-0259 | Leuschke, Randall H. | 1,539.29 |
| 89-CV-0306 | Collier, Peter James | Reconsidered Denial |
| 89-CV-0312 | Hagenbuch, Treva | Dismissed |
| 89-CV-0370 | Hernandez, Rosa | Reconsidered Denial |
| 89-CV-0428 | Andrade, Gustavo | 4,514.19 |
| 89-CV-0444 | Ford, Robert | Denied |
| 89-CV-0448 | Graig, Elizabeth | Reconsidered Dismissal |
| 89-CV-0452 | Jazdziejewski, Anthony M., Jr. | 892.02 |
| 89-CV-0453 | Jones, Louise | Denied |
| 89-CV-0459 | Miller, Herbert A., Jr. | Dismissed |
| 89-CV-0468 | Ritz, Guy George | 190.10 |
| 89-CV-0477 | Balakoohi, Asghar | Dismissed |
| 89-CV-0480 | DeLeon, Estella | 9,701.83 |
| 89-CV-0481 | Flynn, Eileen A. | 162.92 |
| 89-CV-0482 | Flynn, Eileen A. | 22.13 |
| 89-cv-0488 | Martin, Truman | Denied |
| 89-CV-0496 | D'Angelo, Joan Leslie | 4,076.51 |
| 89-CV-0497 | Donish, Howard W. | Dismissed |
| 89-CV-0499 | Edmondson, Dwayne | Denied |
| 89-CV-0509 | Thornton, Kenneth J. | Denied |
| 89-CV-0514 | Amato, Michael R. | Denied |
| 89-CV-0518 | Fabs, John | 2,990.36 |
| 89-CV-0542 | Thomas, Keith | 194.39 |
| 89-CV-0548 | Anderson, Jeanette | Denied |
| 89-CV-0549 | Baledina, Subz Ali | 490.30 |
| 89-CV-0562 | Hoffman, Catherine | Dismissed |
| 89-CV-0571 | Magden, Richard R. | 10,100.83 |
| 89-CV-0597 | Adams, Katie | 284.05 |
| 89-CV-0598 | Allen, Ernest | Denied |
| 89-CV-0600 | Bell, Ina Faye | Denied |
| 89-CV-0634 | Wright, Jifunza C. A. | 19,358.00 |
| 89-CV-0636 | Erves, Deyon | 3.175.00 |

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| 89-CV-1295 | Crowley, Eileen M. | Denied |
| 89-CV-1304 | Johnson, Orville E., Mrs. | 424.80 |
| 89-CV-1329 | Gasic, Albert | 3,000.00 |
| 89-CV-1341 | Tropp, Rhea A. & Douglas, & Children | 25,000.00 |
| 89-CV-1347 | Butterfield, Ann | Dismissed |
| 89-CV-1359 | Moms, Cyril | 1,988.15 |
| 89-CV-1361 | Jakovec Papanekolaou, Sandra | Reconsidered Denial |
| 89-CV-1365 | Seals, Lessie | 610.59 |
| 89-CV-1372 | Diaz, Robert, Jr. | 1,018.00 |
| 89-CV-1389 | Edwards, Howard | Reconsidered Denid |
| 89-CV-1410 | Aguilar, Andres | 3,000.00 |
| 89-CV-1422 | Lumpkins, Fontaine | Denied |
| 89-CV-1430 | Thurston, Christina | Reconsidered Dismissal |
| 89-CV-1435 | Fitton, Kimberly S. | Denied |
| 89-CV-1436 | Swigart, Timothy J. | Denied |
| 89-CV-1437 | Jessee, Donna | Denied |
| 89-CV-1438 | Dillow, Tamara A. | Denied |
| 89-CV-1439 | Yates, D. Kent | Denied |
| 89-CV-1440 | Badali, Lucille C. | 8,950.00 |
| 89-CV-1476 | Gonzalez, Francisco | Reconsidered Dismissal |
| 89-CV-1487 | Master, David | Dismissed |
| 89-CV-1495 | Ross, Earnestine | 3,000.00 |
| 89-CV-1503 | Wilbanks, Ruth Ann | Dismissed |
| 90-CV-0023 | Masek, Susan Marie | Reconsidered Denial |
| 90-CV-0043 | Tufts, Thomas | 400.00 |
| 90-CV-0076 | Terry, William | 24,176.95 |
| 90-CV-0089 | Hooper, Kenneth | Denied |
| 90-CV-0097 | Palmer, Helen | Denied |
| 90-CV-0098 | Palmer, Helen | Denied |
| 90-cv-0099 | Palmer, Helen | Denied |
| 90-CV-0116 | Morns, Eddie | Dismissed |
| 90-CV-0117 | Patterson, Ralph I. | Dismissed |
| 90-CV-0142 | Sheahan, Patrick E., Jr. | Dismissed |
| 90-CV-0143 | Spence, Hazel | Reconsidered Denial |
| 90-CV-0175 | Sauer, John W. | Reconsidered Dismissal |
| 90-CV-0200 | Martinez, Guillermo | 2,587.89 |
| 90-CV-0202 | Parker, Edna Mae | Dismissed |
| 90-CV-0212 | Borre, Patricia A. | Reconsidered Dismissal |
| 90-CV-0226 | Hargrove, Rick | Dismissed |
| 90-CV-0250 | Miner, Christine K. | Dismissed |
| 90-CV-0254 | Smith, Lionel J. | 4,931.73 |

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| 90-cv-0257 | Zwick, Arlene T. | Denied |
| 90-CV-0262 | Hougland, Andrea | Dismissed |
| 90-CV-0264 | Liska, Michael James | 250.36 |
| 90-CV-0279 | Glusic, Joseph P. | 143.50 |
| 90-CV-0285 | Kiszko, Genowefa | Dismissed |
| 90-CV-0289 | Regilio, Barbara | 3,000.00 |
| 90-CV-0307 | Santiago, Hugo | Dismissed |
| 90-CV-0310 | Watkins, Freddie L. | 25,000.00 |
| 90-CV-0316 | Robinson, Antony | Dismissed |
| 90-CV-0341 | Hannah, Craig | 188.75 |
| 90-CV-0345 | Karras, Karlette | 242.88 |
| 90-CV-0376 | Kim, So-Chung | Dismissed |
| 90-CV-0379 | Mason, Curtis | Reconsidered Dismissal |
| 90-CV-0400 | Munoz, Francisca | Dismissed |
| 90-CV-0411 | Alverez, Gerald | Dismissed |
| 90-CV-0416 | Carey, James D. | 1,339.36 |
| 90-CV-0417 | Cholke, James A. | Dismissed |
| 90-CV-0423 | Hornal, Dawn Nicole | Dismissed |
| 90-cv-0425 | James, Vernice | Dismissed |
| 90-CV-0426 | Kazakis, Soon Ho | Dismissed |
| 90-CV-0471 | Kush, Deanna L. | Dismissed |
| 90-CV-0478 | Yepez, Ramona | Dismissed |
| 90-CV-0490 | Johnson, Barbara | Dismissed |
| 90-CV-0493 | Rice, Delisa | 13,482.52 |
| 90-cv-0534 | Amundson, Ruth | Dismissed |
| 90-cv-0544 | Hawryluk, Paul | Dismissed |
| 90-cv-0593 | Palmer, Virtis | Dismissed |
| 90-CV-0594 | Williams, Lillie Mae | 3,000.00 |
| 90-CV-0618 | DeJonge, Troye L. | Dismissed |
| 90-CV-0621 | Hannah, Ernestine | Dismissed |
| 90-CV-0632 | Acker, Sarah | 17,541.06 |
| 90-CV-0682 | Horstman, Louise M. | 1,595.52 |
| 90-cv-0690 | Hernandez, Luis | Dismissed |
| 90-CV-0710 | Merkel, Paule | Dismissed |
| 90-CV-0734 | Johnson, Robert Lynn | Denied |
| 90-cv-0751 | Turner, Daniece | Dismissed |
| 90-cv-0753 | Hougland, Kurt A. | Dismissed |
| 90-cv-0758 | Allen, Margaret | Dismissed |
| 90-CV-0783 | Hardin, Janice M. | Reconsidered Denial |
| 90-CV-0788 | Johnson, Michael D. | 5,867.72 |
| 90-CV-0815 | Buskirk, Cecelia | 176.00 |

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|---|---|---|
| 90-CV-0817 | Cano, Manuel | 13,032.75 |
| 90-CV-0820 | Gwin, Ronnie | 727.20 |
| 90-CV-0830 | Sanchez, Ana | 25,000.00 |
| 90-CV-0837 | Boris, Lauretta | Dismissed |
| 90-CV-0844 | Lambert, Barbara A. | 3,84500 |
| 90-CV-0845 | Lambert, Barbara A. | 25,000.00 |
| 90-CV-0846 | Lambert, Barbara A. | Reconsidered Dismissd |
| 90-CV-0848 | Lambert, Barbara A. | Reconsidered Dismissal |
| 90-CV-0849 | Martin, Richard K. & Harris, Anthony D. | 3,000.00 |
| 90-CV-0853 | O'Shea, William B. | Dismissed |
| 90-CV-0857 | Sanchez, Ana | Dismissed |
| 90-CV-0897 | Brunson, Robert B. | 6,317.80 |
| 90-CV-0915 | Ciezadlo, John E. | 1,839.63 |
| 90-CV-0947 | Russell, Mary K. | Dismissed |
| 90-CV-0950 | Lindsey, Dorothy | Dismissed |
| 90-CV-0978 | Snow, Bessie | 4,650.00 |
| 90-cv-1000 | Rekowski, Richard | 119.80 |
| 90-CV-1005 | Haynes, Rositta I. | 858.86 |
| 90-CV-1014 | Sandau, Lisa | 3,126.40 |
| 90-CV-1040 | Greenfield, Dwayne | Dismissed |
| 90-CV-1058 | Garrett, Demetria | 3,839.73 |
| 90-CV-1067 | Funches, Belinda | Dismissed |
| 90-CV-1077 | Moser, Richard L. | Dismissed |
| 90-CV-1097 | Blaskovitz, Maria | 9.00 |
| 90-CV-1098 | Blaskovitz, Maria | 1.00 |
| 90-CV-1163 | Cassens, Kenneth E. | 25,000.00 |
| 90-CV-1175 | Suntken, Mary E. | Dismissed |
| 90-CV-1198 | Trevino, Robert | 14,076.50 |
| 90-CV-1228 | Julian, Simon John | 25,000.00 |
| 90-CV-1231 | Kurzac, Wladyslawa | 1,177.00 |
| 90-cv-1262 | Garcia, Rafael | Reconsidered Dismissal |
| 90-CV-1272 | Pease, Nancy A. | 353.76 |
| 90-CV-1292 | Winston, Claudia R. | Dismissed |
| 90-CV-1299 | Davis, Martha | Dismissed |
| 90-CV-1318 | DeShazor, Cynthia | 3,407.90 |
| 90-CV-1320 | Reynolds, Mary Glover | 3,000.00 |
| 90-CV-1339 | Femandez, Sonia | Reconsidered Denial |
| 90-CV-1364 | Wyatt, Alice | 3,000.00 |
| 90-CV-1376 | Ball, Tommie | Reconsidered Denid |
| 90-CV-1378 | Drake. Susan M. | 9,381.65 |

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|---|---|---|
| 90-CV-1383 | Lockwood, David | Reconsidered Dismissal |
| 90-CV-1396 | Velasco, Marco A. | Dismissed |
| 90-CV-1406 | Del Favero, Maria M. | 2,020.40 |
| 90-CV-1418 | Norgren, Elizabeth | Dismissed |
| 90-CV-1420 | Salgado, Alfredo | Dismissed |
| 90-CV-1421 | Sanders, Everlena | Dismissed |
| 90-CV-1444 | Felton, Arcola | Reconsidered Dismissal |
| 90-CV-1448 | Johnson, Ipeel | 681.75 |
| 90-CV-1453 | Pelehowski, Jeff R. | Dismissed |
| 90-CV-1476 | Johnson, Derrick | Dismissed |
| 90-CV-1504 | Sipp, Willie | .Reconsidered Dismissal |
| 90-CV-1531 | Jones, LaVerne | Dismissed |
| 90-CV-1539 | Ellertson, Karen | Dismissed |
| 90-CV-1556 | Manson, Gary | 25,000.00 |
| 90-CV-1571 | Shick, Steven Wayne | Dismissed |
| 90-CV-1582 | Robles, Carmen | Dismissed |
| 91-CV-0017 | Metych, Joseph J., Sr. | 3,000.00 |
| 91-CV-0028 | Lee, Rhonda | Dismissed |
| 91-CV-0031 | Bennett, Dorothy | 2,576.00 |
| 91-CV-0061 | Russell, Charles, Jr. | Reconsidered Dismissal |
| 91-CV-0074 | Baker, Wonder Faye | Dismissed |
| 91-CV-0078 | Lange, Howard H. | 2,277.65 |
| 91-CV-0092 | Viggiano, Angelo F. | 417.76 |
| 91-CV-0094 | Wash, Lillie | 3,000.00 |
| 91-CV-0097 | White, Delores | Dismissed |
| 91-CV-0107 | Zimmer, Linda K. | 3,601.25 |
| 91-CV-0120 | Sandoval, Jose A. | 1,778.50 |
| 91-CV-0130 | Lee, Rhonda | Dismissed |
| 91-CV-0131 | Lowe, Rose Marie | 3,000.00 |
| 91-CV-0154 | Reinlasoder, Diana | Dismissed |
| 91-CV-0156 | Scott, Frank J. | 633.64 |
| 91-CV-0160 | White, **Lesley** | Dismissed |
| 91-CV-0172 | Medina, Juan | Dismissed |
| 91-CV-0179 | Valdivia, Hazel & Bustamante, Theresa M. | 3,150.00 |
| 91-CV-0231 | Williams, Jocky Thomas | 2,354.00 |
| 91-CV-0256 | O'Farrell, Thomas F. | Dismissed |
| 91-CV-0264 | Sullivan, John L. | Reconsidered Dismissd |
| 91-CV-0287 | Ortiz, Carlos | Dismissed |
| 91-CV-0291 | Thomas, George G. | Dismissed |
| 91-CV-0295 | Gilbert, Steve A. | 1,876.66 |
| 91-CV-0297 | La Grone, Angelo D. | 6,314.77 |

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|---|---|---|
| 91-CV-0300 | Rodriguez, Jacqueline | Denied |
| 91-CV-0319 | Springer, John M. | 160.50 |
| 91-CV-0324 | Arneson, William | 1,607.09 |
| 91-CV-0336 | Boyd, John W. | Dismissed |
| 91-CV-0345 | Huddleston, Nancy | Dismissed |
| 91-CV-0349 | Neal, Mary R. | Dismissed |
| 91-CV-0356 | Porter, Elizabeth | 3,000.00 |
| 91-CV-0361 | Sieminski, Alexander | Dismissed |
| 91-CV-0369 | Wade, Lisa M. | Dismissed |
| 91-CV-0379 | Holm, Daniel C. | Dismissed |
| 91-CV-0388 | Spies, Pamela A. | Dismissed |
| 91-CV-0389 | Spies, Pamela A. | Dismissed |
| 91-CV-0407 | Gonzdez, **Maria I.** | Dismissed |
| 91-CV-0408 | Dsouza, Juliana | Denied |
| 91-CV-0418 | McDade, Stacy | Dismissed |
| 91-CV-0422 | Medina, ***William*** | 4,297.72 |
| 91-CV-0433 | Mitchell, Doris | Dismissed |
| 91-CV-0446 | Matalik, Norma Jean | Dismissed |
| 91-CV-0448 | Ranson, Annette | 1,230.00 |
| 91-CV-0459 | Riggs, William Dean | Dismissed |
| 91-CV-0460 | Rogers, Bernard D. | Dismissed |
| 91-CV-0468 | Marsh, Lee | Dismissed |
| 91-CV-0473 | Philpot, Lelia F. & Parks, Quoterrd | 25,000.00 |
| 91-cv-0484 | White, Antonio T. | 1,805.96 |
| 91-CV-0494 | Jones, John E. | 97.00 |
| 91-CV-0513 | Feinberg, Joann | Reconsidered Dismissal |
| 91-CV-0516 | Henderson, Louis D. | 4,085.90 |
| 91-CV-0523 | Richardson, Minnie | Dismissed |
| 91-cv-0537 | Dunbar, Gayla Jo | 3,730.48 |
| 91-CV-0541 | Fowler, Marian D. | 11,627.22 |
| 91-CV-0542 | Harvey, Anthony | Dismissed |
| 91-CV-0546 | Lowell, James R. | Dismissed |
| 91-CV-0554 | Brown, Donella J. | 1,365.00 |
| 91-CV-0595 | Kellis, James A. | Dismissed |
| 91-CV-0608 | Hill, Elsie J. | Dismissed |
| 91-CV-0654 | Reed, Bennie W. | 2,135.00 |
| 91-cv-0666 | Jordan; Caludine E. | Dismissed |
| 91-CV-0667 | Leslie, Kenny | Dismissed |
| 91-CV-0670 | Nicholson, Carol | 1,278.69 |
| 91-CV-0672 | Papanek, Ronald | Dismissed |
| 91-CV-0683 | Baratta, Giovanni F. | 2,974.93 |

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|---|---|---|
| 91-cv-0690 | Castiglioni, Wendy Virginia | 9,008.26 |
| 91-CV-0726 | Davisson, Jane L. | 8,313.20 |
| 91-CV-0730 | Flynn, Barbara **A.** | 2,850.51 |
| 91-CV-0740 | Johnson, Steve | 1,409.05 |
| 91-CV-0753 | Shepherd, Robert, Jr. | 2,082.50 |
| 91-CV-0759 | Smith, Narzell D. | 3,000.00 |
| 91-CV-0769 | Patton, Louis | .Denied |
| 91-CV-0770 | Phillips, Ida L. | Dismissed |
| 91-CV-0771 | Potter, Barbara | Dismissed |
| 91-CV-0775 | Smith, Yvonne L. | Denied |
| 91-CV-0782 | Acosta, Steven C. | Dismissed |
| 91-CV-0794 | High, William Alvin | 66.94 |
| 91-CV-0797 | Kobak, Walter | 71.36 |
| 91-CV-0802 | Marks, Cynthia | Denied |
| 91-CV-0815 | Washington, Mildred | 1,035.00 |
| 91-CV-0831 | Goliszewski, Wladyslaw | Dismissed |
| 91-CV-0835 | Kelly, Betty Jean | 1,963.09 |
| 91-CV-0840 | Lacour, Elder M. | 923.10 |
| 91-CV-0848 | Saverson, Madelyn | 4,577.20 |
| **91-CV-0855** | **Benson, Linda** | 23,980.65 |
| 91-CV-0864 | Gilbert, Maureen | 4,886.59 |
| 91-CV-0866 | Green, Catherine | 1,224.78 |
| 91-CV-0881 | Pryor, Sanda C. | 3,000.00 |
| 91-CV-0893 | Delgadillo, Matthew J. | Dismissed |
| 91-CV-0894 | Dew, Doris | 110.00 |
| 91-CV-0895 | Drake, Willie **E.** | Reconsidered Dismissal |
| 91-CV-0913 | Stapleton, Connie | Dismissed |
| 91-CV-0914 | Vazquez, Benito | 590.85 |
| 91-CV-0915 | Washington, Russell S. | Dismissed . |
| 91-CV-0917 | Wozneski, John C. | 3,000.00 |
| 91-CV-0922. | **Boyt,** Charles W., Jr. | 12,694.15 |
| 91-CV-0949 | Pickard, Susan Anne | Dismissed |
| 91-CV-0967 | Johnson, Lula | 947.07 |
| 91-CV-0975 | Calton, Matilda | Dismissed |
| 91-CV-0988 | Prough, Olen Darrell | Dismissed |
| 91-CV-0991 | Rockwood, Carol Ann | Denied |
| 91-CV-0996 | Urban, Pamela | Dismissed |
| 91-CV-0998 | Wade, Sandra Lee | 3,000.00 |
| 91-CV-1002 | Wilkerson, Donald V. | Dismissed |
| 91-CV-1005 | Woodson, Bessie | Dismissed |
| 91-CV-1013 | Clark. Terrance M. | Dismissed |

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|---|---|---|
| 91-CV-1021 | Morlock, Phyllis | Dismissed |
| 91-CV-1022 | Norman, Greg | 3,000.00 |
| 91-CV-1038 | Wright, Belinda | Dismissed |
| 91-CV-1048 | Greene, Keith C. | Dismissed |
| 91-CV-1051 | Johnson, Mary Evonne | Denied |
| 91-CV-1055 | Terovolas, Crystella | Denied |
| 91-CV-1056 | Bronk, James Joseph | Dismissed |
| 91-CV-1063 | Goodlow, Sarah | Denied |
| 91-CV-1064 | Harnrnond, Florine | Reconsidered Denial |
| 91-CV-1082 | Hartsfield, Marshall | 24,901.00 |
| 91-CV-1090 | Rogers, Michael | Denied |
| 91-cv-1091 | Suwanski, Darla | 25,000.00 |
| 91-CV-1105 | Montoya, Juana | 1,500.00 |
| 91-CV-1108 | Wilson, Vivian A. | Denied |
| 91-CV-1112 | Christensen, Sheldine K. | 888.80 |
| 91-CV-1114 | Fabre, Andre D. | 25,000.00 |
| 91-cv-1119 | Wilson, Craig E. | Dismissed |
| 91-CV-1122 | Craig, Helen | 7,141.95 |
| 91-CV-1123 | Crapnell, Mary Lou & Larry E. | Reconsidered Denid |
| 91-CV-1128 | Powell, John Evan | 860.37 |
| 91-CV-1132 | Santorelli, Julie | 3,000.00 |
| 91-CV-1133 | Shelby, Lavora J. | Dismissed |
| 91-CV-1134 | Zimmerman, Dennis | 2,130.30 |
| 91-CV-1140 | Gambill, Cindy L. Stome | 25,000.00 |
| 91-CV-1143 | Vaughn-Ned, Felicia Y. | Dismissed |
| 91-CV-1146 | Wood, Matthew William | 3,605.44 |
| 91-CV-1178 | Scott, Kenneth | Denied |
| 91-CV-1188 | Harcar, Vicky | 25,000.00 |
| 91-CV-1192 | Metcalf, Ora J. | Dismissed |
| 91-CV-1201 | Nawaz, Shad | Dismissed |
| 91-CV-1209 | Willis, Gina | 1,578.25 |
| 91-CV-1222 | Helms, Robert D. | Dismissed |
| 91-CV-1225 | Jepp, Paul | 1,925.00 |
| 91-CV-1230 | Mullenix, James | Dismissed |
| 91-CV-1235 | Sheldon, Ernest | Dismissed |
| 91-CV-1236 | Sikic, George J. | Dismissed |
| 91-CV-1243 | Equia, Manuel | Dismissed |
| 91-CV-1244 | Gliwa, Aleksandra | 2,141.38 |
| 91-CV-1248 | McCaskill, Norma | 240.09 |
| 91-CV-1260 | Cross, Helen L. | 1,293.42 |
| 91-CV-1261 | Easterling, Robert | 2,880.15 |

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| 91-CV-1262 | Folan, Mark J. | 1,856.38 |
| 91-CV-1270 | Jackson, Elvrick | 16,530.19 |
| 91-CV-1277 | Melendez, Evelyn | Denied |
| 91-CV-1285 | Gambill, Cindy L. Stome | Denied |
| 91-CV-1286 | Gambill, Cindy L. Stome | Denied |
| 91-CV-1287 | Gambill, Cindy L. Stome | Denied |
| 91-CV-1296 | Buchynski, Julian H. | 4,696.09 |
| 91-CV-1299 | Hill, Willie Mae | 25,000.00 |
| 91-CV-1302 | McKee, David M. | Dismissed |
| 91-CV-1313 | Thatch, Willie **B.,** Jr. | 23,324.76 |
| 91-CV-1318 | Davis, Mattie | Dismissed |
| 91-CV-1323 | Lembo, Thomas | 5,856.08 |
| 91-CV-1333 | Brewer, Marie G. | Dismissed |
| 91-CV-1336 | Daskiewicz, Felicia A. | 9.16 |
| 91-CV-1338 | Hill, Rose M. | Dismissed |
| 91-CV-1341 | Kneeland, Mary Belle | Dismissed |
| 91-CV-1345 | Muldrew, Dorthy | 2,478.10 |
| 91-CV-1346 | Ollie, James | Dismissed |
| 91-CV-1347 | Philips, Lisa Ann | Dismissed |
| 91-CV-1355 | Alexander, Effie | 3,000.00 |
| 91-CV-1359 | Kennedy, Maxine | 2,635.50 |
| 91-CV-1361 | Ramirez, Arnaldo | Dismissed |
| 91-CV-1369 | Kimpel, Jerome | Dismissed |
| 91-CV-1383 | Giles, Alice | Dismissed |
| 91-CV-1386 | Schillaci, Michael A. | 3,809.93 |
| 91-CV-1387 | White, Terry C. | 23,214.98 |
| 91-CV-1391 | Brikah, Francois | Dismissed |
| 91-CV-1395 | Dickey, Althea | Denied |
| 91-CV-1405 | Smith, Wanda J. | 226.97 |
| 91-CV-1415 | Dotson, Vivian Freeman | Dismissed |
| 91-CV-1433 | Williams, Cna | Dismissed |
| 91-CV-1434 | Akhtar, Shakil | Dismissed |
| 91-CV-1437 | Colby, Glen D. | 5,431.94 |
| 91-CV-1440 | Garcia, Eusebio J. | 25,000.00 |
| 91-CV-1446 | McCreedy, Clint | 1,553.26 |
| 91-CV-1453 | Stolarz, Amelia | Reconsidered Denial |
| 91-CV-1462 | Woloszczuk, Krzysztof | Dismissed |
| 91-CV-1476 | Perry, Sally S. | 408.00 |
| 91-CV-1485 | Davies, Mathew B. | Dismissed |
| 91-CV-1491 | Redman, Phyllis | Dismissed |
| 91-CV-1493 | Todd, Shirley A. | 2,865.00 |

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|---|---|---|
| 91-CV-1519 | Sandoval, Pamela | Dismissed |
| 91-CV-1531 | Jackson, Calvin | Dismissed |
| 91-CV-1532 | Lanphier, Michael | Denied |
| 91-CV-1534 | O'Malley, Patrick J. | Dismissed |
| 91-CV-1543 | Bryant, Lula H. | Denied |
| 91-CV-1545 | Cruz, David | Denied |
| 91-CV-1562 | Negele, Brian R. | Dismissed |
| 91-CV-1563 | Negele, Susanne I. | Dismissed |
| 91-CV-1576 | Walker, Lela Mae | 2,552.00 |
| 91-CV-1581 | Black, Mamie | Denied |
| 91-CV-1591 | Almalahi, Mohamed | Dismissed |
| 91-CV-1596 | Bruns, Marcia | Dismissed |
| 91-CV-1600 | Colbert, Grace L. | 22,399.78 |
| 91-CV-1603 | Gordon, John | 4,534.00 |
| 91-CV-1606 | Headd, Phyllis | 3,000.00 |
| 91-CV-1610 | King, Frederick Lamar | 353.84 |
| 91-CV-1613 | Rivera, Louis Anthony, Jr. | Dismissed |
| 91-CV-1630 | Hawkins, Collie | Dismissed |
| 91-CV-1637 | Auth, Wesley D. | 1,672.60 |
| 91-CV-1645 | Coleman, Dolphya Yvonne | Dismissed |
| 91-CV-1647 | Daly, Patricia L. | Denied |
| 91-CV-1653 | Jackson, Alana | 25,000.00 |
| 91-CV-1658 | Lucas, Kathi R. | 3,959.14 |
| 91-CV-1694 | Mister, Vanessa | Denied |
| 91-CV-1699 | Viero, Edith | Dismissed |
| 91-CV-1705 | Hill, Juanita | Reconsidered Denial |
| 91-CV-1708 | Jain, Shikhar C. | 10,817.61 |
| 91-CV-1729 | Elder, Kerry Randall | 1,212.26 |
| 91-CV-1730 | Favela, Mario | 6,305.85 |
| 91-CV-1751 | Gul, Robert | 3,000.00 |
| 91-CV-1755 | Pelayo, Francisco | 7,998.50 |
| 91-CV-1770 | Flaugher, Dorothy | 6,303.54 |
| 91-CV-1773 | Lamb, Timothy J. | Dismissed |
| 91-CV-1778 | Morgan, Betty | 670.00 |
| 91-CV-1780 | Santiago, Dennis J. | Dismissed |
| 91-CV-1787 | Altman, Sedwick Devon | 15,008.30 |
| 91-CV-1793 | Gurka, Janet | Denied |
| 91-CV-1799 | Jackson, Curtis | 8,464.83 |
| 91-CV-1803 | Luhm, Susan & Schultz, Zita | 25,000.00 |
| 91-CV-1804 | Maliszewski, Walter & Alice | 2,999.50 |
| 91-CV-1807 | Rogers, Donna S. | 10,059.46 |

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| 91-CV-1811 | DeLong, Sharon | Dismissed |
| 91-CV-1820 | Kucnvara, Kenneth M. | Dismissed |
| 91-CV-1827 | Seward, Andrew Lawford | 5,300.10 |
| 91-CV-1833 | Tortorella, Brian P. | 7,004.85 |
| 91-CV-1839 | Martin, Alli | Denied |
| 91-CV-1841 | Des Lauriers, Mimi | 17,679.16 |
| 91-CV-1844 | Grayson, Lynette | Dismissed |
| 91-CV-1853 | Phillips, Eric L. | Dismissed |
| 91-CV-1857 | Sloan, Barbara J. | 3,000.00 |
| 91-CV-1858 | Stewart, Rosa L. | Reconsidered Dismissal |
| 91-CV-1866 | Slade, Kenneth | Dismissed |
| 91-CV-1870 | Anderson, Marcus | Dismissed |
| 91-CV-1873 | Carrow, Dean G. | Dismissed |
| 91-CV-1875 | Cole, Georgia | Dismissed |
| 91-CV-1876 | Dutton, Kenneth | Denied |
| 91-CV-1877 | Dutton, Susan | Denied |
| 91-CV-1896 | Chavers, Vera | Denied |
| 91-cv-1911 | Levasseur, Louis | Denied |
| 91-cv-1919 | Spear, William | Dismissed |
| 91-CV-1920 | Stabler, Louise | 1,867.00 |
| 91-CV-1929 | Moore, Beatrice | Denied |
| 91-CV-1933 | Bums, Sharon Kay | 3,000.00 |
| 91-CV-1936 | Davis, Georgia | Dismissed |
| 91-CV-1938 | Fireline, Deon | Denied |
| 91-CV-1954 | Kim, Eung-Gwang | 14,619.24 |
| 91-CV-1955 | McCriston, Sheila | 3,000.00 |
| 91-CV-1960 | Pulley, Andrea | Denied |
| 91-CV-1961 | Schaap, Linda | Dismissed |
| 91-CV-1977 | Constantine, Kirk A. | 3,097.72 |
| 91-CV-1985 | McCoy, Derek | 543.29 |
| 91-CV-2012 | Baker, Alice | 6,944.60 |
| 91-(37-2022 | Branaman, Ronald W. | Dismissed |
| 91-CV-2025 | Diaz, Joseph | 674.23 |
| 91-CV-2032 | Nickens, Robert L. | 601.59 |
| 91-CV-2034 | Poldeck, Mary | Denied |
| 91-CV-2036 | Wilbourn, John | Denied |
| 91-CV-2042 | Bassey, Kokoete | Dismissed |
| 91-CV-2049 | Horvath, Mark | 2,446.50 |
| 91-CV-2055 | Mankowski, Juliane | 2,632.06 |
| 91-CV-2062 | Roddy, Michael J. | 1,454.72 |
| 91-CV-2070 | Allen, Julie | 1,178.00 |

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| 91-CV-2072 | Bell, Ruth | 958.70 |
| 91-CV-2074 | Broome, Claire Joan | 1,562.32 |
| 91-CV-2088 | Clay, Wayland Lee, Jr. | Dismissed |
| 91-CV-2097 | Wellington, Clarence Claude | 4,261.42 |
| 91-CV-2101 | Flowers, Gregory | Denied |
| 91-CV-2111 | Brodzik, Lester L. | Reconsidered Denid |
| 91-CV-2113 | Diaz, Delfino V. | 1,320.66 |
| 91-CV-2114 | Ehom, Joan | Denied |
| 91-CV-2141 | Soto, Joseph | 7,254.81 |
| 91-CV-2143 | Williams, Melvin T. | 295.24 |
| 91-CV-2148 | Fisher, Harold P. | 75.00 |
| 91-CV-2149 | Goodwin, Carl, Jr. | 10,336.59 |
| 91-CY-2189 | Ramos, Wilfredo | 19,269.22 |
| 91-CV-2196 | Zurawski, Jill | 219.50 |
| 91-CV-2200 | Anderson, Kimberly D. | 2,596.64 |
| 91-CV-2213 | Bumett, Minnie &Wilson, Carolyn | Denied |
| 91-CV-2231 | Burke, Robert J. | 1,206.55 |
| 91-CV-2257 | Zonyk, Margaret P. | 15,325.66 |
| 91-CV-2259 | Buffa, Deborah | Denied |
| 91-CV-2268 | Hubbard, Anna L. | 325.00 |
| 91-CV-2276 | Egan, Edward J., Jr. | 818.10 |
| 91-CV-2277 | Lee, Lucious | 863.06 |
| 91-CV-2278 | Lemons, Betty | 1,378.30 |
| 91-CV-2305 | Bailey, Ida W. | 2,525.00 |
| 91-CV-2320 | Kellum, Barbara | Denied |
| 91-CV-2333 | Lombardi, Carol C. | 3,575.00 |
| 91-CV-2335 | Balcazar, Serafin | 3,000.00 |
| 91-CV-2346 | Hearn, Kenneth E. | 13,390.34 |
| 91-CV-2358 | Fritch, Janine M. | 1,125.00 |
| 91-CV-2375 | Gonzalez, Martin | 3,177.85 |
| 91-CV-2397 | Snow, Mary | 2,617.00 |
| 91-CV-2408 | Keck, James G. | 550.23 |
| 91-CV-2415 | Tate, Shirley | 1,340.00 |
| 91-CV-2436 | Sims, Jearlean | 2,879.62 |
| 91-CV-2438 | Stevens, Andre | 518.70 |
| 91-CV-2439 | Terrell, Bobby Lynn, Jr.; a Minor, by his Aunt & Next Friend, Lula B. Robertson | 1,863.15 |
| 91-CV-2440 | Wheeler, Dolores | 526.00 |
| 91-CV-2442 | Abduliah, Zaheerah | Denied |
| 91-CV-2452 | Hughes, Timothy Sean | 4,167.34 |
| 91-CV-2460 | Anderson, Gretchen | 4,263.10 |

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|---|---|---|
| 91-CV-2461 | Azarnoosh, Behrooz | Denied |
| 91-CV-2465 | Fisher, Terry D. | 445.50 |
| 91-CV-2473 | Lewis, Isaac | 4,407.20 |
| 91-CV-2480 | Pleasant, Harvey L., Jr. | Reconsidered Dismissal |
| 91-CV-2491 | Ray, Earl | 6,913.89 |
| 91-CV-2503 | Magee, Wendy | Denied |
| 91-CV-2505 | Ottens, Christy | 1,767.29 |
| 91-CV-2518 | Nino, Sara | 3,000.00 |
| 91-CV-2521 | Wydra, Joseph A. | 3,339.89 |
| 91-CV-2522 | Aguilar, Diana | 6,157.00 |
| 91-CV-2538 | Jones, Odessa | Dismissed |
| 91-CV-2539 | Olson, Elizabeth | 110.00 |
| 91-CV-2544 | Davis, Shirley Ruth | 403.95 |
| 91-CV-2550 | Hodges, Willie | 317.00 |
| 91-CV-2552 | Pagan, Nelida | 1,776.20 |
| 91-CV-2567 | Spaloletti, John | 936.10 |
| 91-CV-2577 | Huntley, Edna L. | 25,000.00 |
| 91-CV-2582 | McDaniels, Clemmie, Jr. | Denied |
| 91-CV-2588 | Curran, Denise | 380.00 |
| 91-CV-2596 | Johnson, Fonda K. | Dismissed |
| 91-CV-2599 | Ortiz, Leodegario & Maria | Denied |
| 91-CV-2601 | Raines, Victor Allen | 1,207.90 |
| 91-CV-2602 | Raines, Victor Allen | 1,094.36 |
| 91-CV-2611 | Green, Susie Ella & Juanita | 25,000.00 |
| 91-CV-2637 | Billsland, David E. | 3,000.00 |
| 91-CV-2645 | Martin, Jirnmie | 4,197.27 |
| 91-CV-2647 | Pekarovich, Beth A. | 612.12 |
| 91-CV-2648 | Schmidt, Betty | 4,132.00 |
| 91-CV-2656 | Harps, Dennis M. | 1,229.50 |
| 91-CV-2659 | Jones, Wilbert David, Jr. | Denied |
| 91-CV-2663 | Moorhead, Daniel | 2,335.49 |
| 91-CV-2667 | Pranskus, Marsha J. | 2,590.00 |
| 91-CV-2677 | Iovino, Georgeann L. | 3,000.00 |
| 91-CV-2678 | Wardlow, Rosetta | 3,000.00 |
| 91-CV-2679 | Iovino, Georgeann L. | 3,000.00 |
| 92-CV-0001 | Arrizaga, Socorro | Denied |
| 92-CV-0004 | Hoskinson, Peggy; for Anna Hoskinson, a Minor | 22,000.00 |
| 92-CV-0005 | Mena, Salvador | 2,600.00 |
| 92-CV-0008 | Shada, Suad | Denied |
| 92-CV-0015 | Crawford, Edward | Denied |

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|---|---|---|
| 92-CV-0016 | Davis, Avonia | 3,000.00 |
| 92-CV-0017 | Donovan, David F. | Dismissed |
| 92-CV-0019 | Gibala, Angeline | Denied |
| 92-CV-0022 | Bankhead, Julie (Gunnerson) | Denied |
| 92-CV-0023 | Haro, Elva | Denied |
| 92-CV-0024 | Iozzo, Donna | 3,000.00 |
| 92-CV-0025 | Miller, James F. | 9,012.85 |
| 92-CV-0027 | Robinson, Connie Brenda | Denied |
| 92-CV-0029 | Schneider, Kay F. | Denied |
| 92-CV-0033 | Watson, Pearl | 4,519.76 |
| 92-CV-0034 | Yoon, Roy B. | 485.50 |
| 92-CV-0037 | Alexander, Frances | Denied |
| 92-CV-0038 | Alexander, Fritz | Denied |
| 92-CV-0039 | Byrd, Prentiss Nelson | Denied |
| 92-CV-0042 | Davis, Sidney, III | Denied |
| 92-CV-0043 | Griffiths, Margaret L. | 87.40 |
| 92-CC-0045 | Jackson, Scott A. | Dismissed |
| 92-cv-0048 | McCarty, Reginald & Jeanette | Denied |
| 92-CV-0049 | McGrew, Gail | 3,000.00 |
| 92-CV-0050 | McMurtry, Kayeecha | 91.17 |
| 92-CV-0052 | Repel, Michael R. | Denied |
| 92-CV-0054 | Saucedo, Alicia | Denied |
| 92-CV-0055 | Smith, Wanda J. | 30.00 |
| 92-CV-0059 | Arterburn, Sharon | 1,545.00 |
| 92-CV-0060 | Franks, Michael R. | Denied |
| 92-CV-0061 | Hicks, George A. | Denied |
| 92-CV-0062 | McGhee, Rosalind | Denied |
| 92-CV-0065 | Beville, Pauline | Dismissed |
| 92-CV-0066 | Wortheam, Michael | Denied |
| 92-CV-0067 | Wright, Donna S. & Bowen, Lena D. | 2,235.00 |
| 92-CV-0068 | Branch, Joshua | 325.79 |
| 92-CV-0069 | Campbell, Theresa | 720.00 |
| 92-CV-0070 | Harper, Camille | Denied |
| 92-CV-0071 | Hayes, Emanuel | Dismissed |
| 92-CV-0075 | Orlowitz, Mildred | 31.00 |
| 92-CV-0076 | Rolon, David | Dismissed |
| 92-CV-0077 | Ryles, Amanda | 2,288.70 |
| 92-CV-0079 | Stacy, Vernon V., Jr. | 74.83 |
| 92-CV-0081 | Barth, Lenette | 25,000.00 |
| 92-CV-0082 | Doherty, Mary C. | Denied |
| 92-CV-0087 | Pleasant, Ravonne | Denied |

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|---|---|---|
| 92-CV-0091 | Hernandez, Lionel | Denied |
| 92-CV-0093 | Rutters, Troy Brian | Dismissed |
| 92-CV-0097 | Anderson, Eddie | Denied |
| 92-CV-0098 | Betts, Mary E. | 1,033.52 |
| 92-CV-0099 | Boggan, Yvonne | 893.60 |
| 92-CV-0104 | Harrold, Franua | 4,649.80 |
| 92-CV-0105 | Koztowski, Antoni | Dismissed |
| 92-CV-0116 | Aronold, Eugenia | Denied |
| 92-CV-0120 | Davis, Maggie | Denied |
| 92-CV-0121 | Duffy, Tony J. | 11,883.53 |
| 92-CV-0122 | Gordon, Ruthie | 2,606.50 |
| 92-CV-0125 | Ladd, Francis | Denied |
| 92-CV-0127 | Montgomery, Catherine | Denied |
| 92-CV-0131 | Carothers, William Lee | 2,218.00 |
| 92-CV-0133 | Amaya, Rose Anne | Denied |
| 92-CV-0134 | Chandler, Reginald | Dismissed |
| 92-CV-0137 | Johnson, Ronald L. | 3,000.00 |
| 92-CV-0141 | Singh, Bhupinder | 528.00 |
| 92-CV-0142 | Smith, Pieretta J. | Reconsidered Denid |
| **92-CV-0145** | Boyden, **Curtis** N. | Denied |
| 92-CV-0147 | Caffey, Nathan E. | Denied |
| 92-CV-0148 | Dockins, Jody | Dismissed |
| 92-CV-0158 | Robles, Juan Gabriel | Dismissed |
| 92-CV-0159 | Weddington, Cherry | 2,088.40 |
| 92-CV-0166 | Cruz, Marco | Denied |
| 92-CV-0167 | Deleon, Carmen Pinero | 3,000.00 |
| 92-CV-0170 | Lang, Donnie Elizabeth | 3,000.00 |
| 92-CV-0174 | Phillips, Laura | 3,351.13 |
| 92-CV-0175 | Pitts, Ernest | 460.06 |
| 92-CV-0176 | Robinson, Paul | 2,344.47 |
| 92-CC-0177 | Salim, Sachwani | Denied |
| 92-CV-0186 | Hill, Kimberly Yvette | Denied |
| 92-CV-0187 | James, Kenneth | Dismissed |
| 92-CV-0190 | Moss, Hortense | 3,000.00 |
| 92-CV-0193 | Reid, Teresa M. | Denied |
| 92-CV-0194 | Ruffin, Donald | Denied |
| 92-CV-0198 | Torres, Dolores Blanche | Denied |
| 92-CV-0201 | Whitted, Michael, Sr. | Denied |
| 92-CV-0203 | Willis-Golden, Jenette | 3,000.00 |
| 92-CV-0205 | Nelson, Clifford | 783.88 |
| 92-CV-0209 | Jarmons, Beverly A. | 525.00 |

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|---|---|---|
| 92-CV-0210 | Le, Nguyen V. | 2,716.47 |
| 92-CV-0212 | Lopez, Johnny | 790.96 |
| 92-CV-0220 | White, Kelvin Lynn | 535.66 |
| 92-CV-0221 | Alexander, David | 859.83 |
| 92-CV-0234 | Gant, Laverne Ray | Denied |
| 92-CV-0238 | Horst, Lorrie A. & Brian Lee | 9,452.54 |
| 92-CV-0239 | Jones, Larry | Denied |
| 92-CV-0241 | McClain, Louise | 309.66 |
| 92-CV-0243 | Miceli, Luciano | Denied |
| 92-CV-0244 | McGee, Daisy | 2,965.00 |
| 92-CV-0246 | Murphy, Ethel M. | 2,986.41 |
| 92-CV-0248 | Overstreet, Gerald L. | Denied |
| 92-cv-0250 | Ritter, Ruthann M. | 3,000.00 |
| 92-CV-0253 | Thompson, Allen Anthony | Denied |
| 92-CV-0254 | Tucker, Andre | 4,323.62 |
| 92-cv-0256 | Williams, Willie Mae | 1,155.00 |
| 92-cv-0259 | Brown, Erving | 2,165.00 |
| 92-CV-0263 | Munshi, Zubeda Mehmood & Tai, Mohamad Nashir V. | 700.00 |
| 92-CV-0273 | Estes, David | Dismissed |
| 92-CV-0274 | Floyd, Richard, Jr. | 25.00 |
| 92-CV-0276 | Jimenez, Cesar | Denied |
| 92-CV-0277 | Lewis, Alvin | Dismissed |
| 92-CV-0281 | Waller, Edward B., Jr. | Denied |
| 92-cv-0285 | Allen, William J. | 996.21 |
| 92-CV-0287 | Brundige, Keith | Denied |
| 92-CV-0288 | Davies, Thomas Peter | Denied |
| 92-CV-0291 | Hare, Ethel A. | 1,287.20 |
| 92-CV-0297 | Muhammad, Robin Ewing | 512.70 |
| 92-CV-0298 | Newman, Tammy | Denied |
| 92-CV-0304 | Watts, Sterling | Dismissed |
| 92-CV-030.5 | Watts, Sterling | Dismissed |
| 92-CV-0306 | Watts, Sterling | Dismissed |
| 92-CV-0307 | Watts, Sterling | Dismissed |
| 92-CV-0308 | Whiteside, Dorothy I. | 3,000.00 |
| 92-CV-0316 | Harrill, James Albert, III | 151.26 |
| 92-CV-0321 | Romero, Martha E. | 38.36 |
| 92-CV-0334 | Musik, Izabela | 467.25 |
| 92-CV-0335 | Parker, Evelyn | 128.68 |
| 92-CV-0339 | Rider, Kimberly Dawn | Dismissed |
| 92-CV-0347 | Da Baco, Robb | 2,247.74 |

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|---|---|---|
| 92-CV-0349 | Escobar, Johnny | 7,094.00 |
| 92-CV-0363 | Smith, Robert G. | 329.43 |
| 92-CV-0367 | Cenan, John Michael | Reconsidered Denial |
| 92-CV-0371 | Guess, James E. | 858.91 |
| 92-CV-0373 | London, Sabrina | Dismissed |
| 92-CV-0382 | Andersen, Eleanor M. | 237.08 |
| 92-cv-0384 | Brown, Thessalonia | Denied |
| 92-CV-0393 | Gully, Letha | 1,789.75 |
| 92-CV-0395 | Korzeniowski, Robert J. | 254.27 |
| 92-CV-0407 | Baker, Morris M. | 1,533.00 |
| 92-CV-0408 | Benton, Carlos Alphonso | Denied |
| 92-CV-0414 | Mendoza, Lorenza | Denied |
| 92-CV-0415 | Mendoza, Lorenza | Denied |
| 92-CV-0416 | Mendoza, Lorenza | 2,197.00 |
| 92-CV-0417 | Mendoza, Lorenza | 1,252.85 |
| 92-CV-0418 | Mendoza, Menesia | Denied |
| 92-CV-0420 | Mendoza, Modesto | Denied |
| 92-CV-0421 | Mendoza, Modesto | Denied |
| 92-CV-0428 | Bogan, Carolyn | Denied |
| 92-CV-0431 | Bruce, Jeanette | Denied |
| 92-CV-0437 | May, Patricia L. | 12,154.99 |
| 92-CV-0440 | Sanders, Virginia C. | Dismissed |
| 92-CV-0446 | Torres, Aida | Dismissed |
| 92-CV-0448 | Wolf, Marie | 2,244.28 |
| 92-CV-0450 | Burt, Gail D. | 2,673.10 |
| 92-CV-0452 | Erbe, David Wayne | 1,270.42 |
| 92-CV-0453 | Heiney, Jerry | Dismissed |
| 92-cv-0458 | Pena, Vincenta | 870.00 |
| 92-CV-0463 | Walls, Traci Cain | 1,390.00 |
| 92-CV-0468 | Jackson, Hester J. | 25,000.00. |
| 92-CV-0471 | Stebbins, Ryan J. | Denied |
| 92-CV-0474 | Arnold, James | 100.00 |
| 92-CV-0475 | Bentley, Farrell G. | Dismissed |
| 92-CV-0476 | Bond, Carl N. | 2,342.30 |
| 92-CV-0479 | Hart, Richard Allen | Denied |
| 92-CV-0481 | Long, Theresa | 895.00 |
| 92-CV-0483 | Michel, Gilbert | Denied |
| 92-CV-0488 | Powell, Janis A. & Stokes, Estella | 576.10 |
| 92-CV-0495 | Harriman, James R., Jr. | Denied |
| 92-CV-0501 | Jones, Tonya P. | 215.09 |
| 92-CV-0506 | Hogue, Tomyshuna | Denied |

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|---|---|---|
| 92-cv-0509 | Hamilton, James M. | Denied |
| 92-CV-0521 | Sykes, Elnora | 2,009.80 |
| 92-CV-0524 | Williams, Roderick Lamara | 3,163.91 |
| 92-CV-0527 | Cotton, Ronald Lee, Jr. | Denied |
| 92-CV-0536 | Gibson, Geneva M. | Denied |
| 92-CV-0537 | Guither, Theresa | 585.84 |
| 92-cv-0538 | Gdther, Theresa | Dismissed |
| 92-cv-0548 | Sartini, Susan P. | 347.58 |
| 92-CV-0551 | Adamczyk, Antoni | 1,472.60 |
| 92-CV-0564 | Turner, Delores J. | 2,404.86 |
| 92-CV-0565 | Walton, Arlillian | 1,519.69 |
| 92-CV-0566 | West, Cora T. | Denied |
| 92-CV-0571 | Battersby, **Carl** | 5,525.18 |
| 92-cv-0575 | Carrasquillo, Minerva | 2,053.00 |
| 92-CV-0576 | Dekreek, Ronald A. | 1,660.88 |
| 92-cv-0579 | Gilley, Harry Robert | Denied |
| 92-CV-0580 | Gross, Martin | 1,364.35 |
| 92-CV-0582 | Hamilton, Waymond | Reconsidered Dismissal |
| 92-CV-0585 | Lopez, Juan | 25,000.00 |
| 92-CV-0589 | Pelmore, Eddie Dean | Denied |
| 92-CV-0592 | Reynolds, Geneva | 3,000.00 |
| 92-cv-0599 | Watson, Barbara & Mary | 3,000.00 |
| 92-CV-0601 | Weller, Molly | Denied |
| 92-CV-0607 | Asher, Harriet | 1,608.79 |
| 92-cv-0608 | Bolden, Rosemary | 2,932.30 |
| 92-CV-0613 | Camarillo, Patricia | Denied |
| 92-CV-0614 | Campbell, Donna | 3,000.00 |
| 92-CV-0617 | Cross, Lonnie | Denied |
| 92-CV-0618 | DeRoo, Daniel W. | 1,043.62 |
| 92-CV-0620 | Emetti, Jennifer | Reconsidered Dismissal |
| 92-CV-0621 | Epps, Burkett | Denied |
| 92-CV-0622 | Freitag, Ruth L. | 581.87 |
| 92-CV-0624 | Gomez, Maria De La Luz | 94.00 |
| 92-cv-0625 | Gooden, Dovella | 2,436.12 |
| 92-CV-0626 | Greene, Jacqueline | Denied |
| 92-CV-0627 | Ingram, Mamie | Denied |
| 92-CV-0629 | Jones, Tonya P. | Dismissed |
| 92-CV-0630 | Kenney, Fannie L. | 2,314.43 |
| 92-CV-0632 | Logan, Martin A. | Dismissed |
| 92-CV-0635 | Meucci, Michele | Denied |
| 92-CV-0637 | Odegbesan, Yemisi | Dismissed |

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|---|---|---|
| 92-CV-0639 | Percy, Yvonne | 2,944.10 |
| 92-CV-0640 | Pyer, Litt | Denied |
| 92-CV-0641 | Sapp, Jossie L. & Hayes, Patrina | 25,000.00 |
| 92-CV-0644 | Withrow, Delbert E. | 2,899.61 |
| 92-CV-0645 | Verstraete, Leo N., Sr. | Denied |
| 92-CV-0647 | Besser, Mark Richard | Denied |
| 92-CV-0650 | Cowans, Jacqueline | 1,365.53 |
| 92-CV-0652 | Drake, Lamarr T. | Denied |
| 92-CV-0653 | Gant, Rosie | Dismissed |
| 92-CV-0655 | Gordon, Marlon | 104.75 |
| 92-CV-0660 | McGraugh, Connie | 810.75 |
| 92-CV-0662 | Montalvo, Jose | 328.00 |
| 92-CV-0666 | Robles, Mireya M. | 6,836.00 |
| 92-CV-0667 | Robles, Santiago | Dismissed |
| 92-CV-0669 | Smith, Karen S. | Denied |
| 92-CV-0670 | Smith, Lillie | Denied |
| 92-CV-0672 | Thompson, Eric Pruitte | 258.24 |
| 92-CV-0674 | Van Hyning, Robert Andrew | 1,611.88 |
| 92-CV-0678 | Zweeres, Raymond M. | 6,107.53 |
| 92-CV-0680 | Cordero, Carmelo, Jr. | Dismissed |
| 92-CV-0681 | Hernandez, Jose Evelio | 3,000.00 |
| 92-CV-0686 | Velasquez Maria | 1,400.00 |
| 92-CV-0688 | Archibald, Clemmie | 3,000.00 |
| 92-CV-0690 | Brown, Lula | 1,000.00 |
| 92-CV-0694 | Gizowski, Sandy J. | 410.90 |
| 92-CV-0698 | Klapper, Bruce | Denied |
| 92-CV-0701 | Sasek, Michael A. | Denied |
| 92-CV-0709 | Bryant, Kimberlee | Dismissed |
| 92-CV-0712 | Christmas, Tonya | Denied |
| 92-CV-0714 | Duignan, John J. | Denied, |
| 92-CV-0715 | Hinton, Derothee L. | Denied |
| 92-CV-0716 | Hogan, Jed C. | Dismissed |
| 92-CV-0717 | Hussein, David | Dismissed |
| 92-CV-0719 | Prestidge, Damon Evans | 275.20 |
| 92-CV-0722 | Royal, Rosetta & McGee, Frazier | 3,401.05 |
| 92-CV-0727 | Bell, Laura Renee | Denied |
| 92-CV-0733 | Giles, Norman | Dismissed |
| 92-CV-0734 | Gold, Claud Duane | Denied |
| 92-CV-0737 | Highland, Jeff | Denied |
| 92-CV-0739 | Johnson, Robert M. | 3,147.15 |
| 92-CV-0742 | Lampkin, Frank | Denied |

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|---|---|---|
| 92-CV-0743 | Lawton, Irene E. | Dismissed |
| 92-CV-0749 | Rolfe, Kim | Dismissed |
| 92-CV-0752 | Suddath, Larry | Dismissed |
| 92-CV-0753 | Thompson, Donald | 2,150.00 |
| 92-CV-0754 | Williams, Martez | Denied |
| 92-CV-0757 | Best, Lonnie | 5,110.56 |
| 92-cv-0758 | Brisco, Joann | 2,381.50 |
| 92-CV-0764 | Edmond, Brenda J. | 3,000.00 |
| 92-CV-0769 | Hixson, Jerry | 478.80 |
| 92-CV-0777 | Newman, Lindberg L. | Denied |
| 92-CV-0778 | Newman, Lindberg L. | Denied |
| 92-CV-0779 | Otero, Angel Luis, Sr. | 3,000.00 |
| 92-CV-0786 | Fackler, Lois S. | 5,343.85 |
| 92-cv-0788 | Gills, Regina | Denied |
| 92-CV-0791 | Koon, Linda | Denied |
| 92-CV-0793 | Martinez, Angelina | Denied |
| 92-CV-0794 | Martinez, Elvia | 1,903.00 |
| 92-cv-0798 | Ulmer, Bernadine | 3,000.00 |
| 92-cv-0800 | Williams, Felix | 628.00 |
| 92-cv-0802 | Rush, Judy Cherie | 4,159.88 |
| 92-cv-0809 | Bahena, Moises Diaz | 483.80 |
| 92-cv-0815 | Eubanks, Gloria | 2,480.24 |
| 92-cv-0818 | Heard, April & Albert J., Sr. | 25,000.00 |
| 92-cv-0822 | Khalid, Mohammed | Dismissed |
| 92-CV-0825 | Lawson, Alberta & Cole, Laura | 3,000.00 |
| 92-cv-0826 | Lopez, Maria | 657.44 |
| 92-cv-0827 | Lorenzana, William | Denied |
| 92-CV-0830 | Ozaki, Stephen S. | Denied |
| 92-CV-0838 | Tree, Yvonne C. | 618.25 |
| 92-cv-0841 | Bell, Robert Lee | 25,000.00 |
| 92-CV-0842 | Cooper, Carol J. | 2,195.94 |
| 92-cv-0843 | Easter, Cynthia | Denied |
| 92-CV-0847 | Hoster, Robin Sue | Denied |
| 92-CV-0849 | Kim, Kyunghwan | 625.98 |
| 92-cv-0854 | Spitere, Donald J. | 2,129.39 |
| 92-cv-0855 | Tirado, David | Denied |
| 92-CV-0860 | Blache, Joyce E. | 3,000.00 |
| 92-CV-0861 | Bryant, Gearldine | 2,938.10 |
| 92-CV-0866 | Garcia, Rafael, Jr. | 3,000.00 |
| 92-CV-0868 | Hardy, Timothy J. | 3,000.00 |
| 92-CV-0869 | Jones, Barbara | 2,713.10 |

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|---|---|---|
| 92-CV-0876 | Parker, Doris | Denied |
| 92-CV-0879 | Simental, Maria | 3,000.00 |
| 92-CV-0880 | Sims, Madeline **A.** | 3,119.00 |
| 92-CV-0881 | Simms, Locust, Jr. | Dismissed |
| 92-cv-0882 | still, *Gary* Wayne | Denied |
| 92-CV-0883 | Waller, Michael | 1,415.90 |
| 92-CV-0887 | Farrell, Jerome W. | Denied |
| 92-CV-0888 | Fesanco, Edward **A.** | Dismissed |
| 92-CV-0897 | Ordonez, Tomas | Dismissed |
| 92-CV-0900 | Ward, Pamela | 359.80 |
| 92-CV-0904 | Davis, Geneva | 3,000.00 |
| 92-CV-0906 | Patlan, Eduardo | Dismissed |
| 92-CV-0909 | Lovings, Vivian | 2,415.40 |
| 92-CV-0915 | Rios, Jesus | Dismissed |
| 92-CV-0919 | Spence, Quotez | 613.80 |
| 92-CV-0921 | Vega, Emma | Denied |
| 92-CV-0923 | Akoto, Nana **K.** | Denied |
| 92-CV-0924 | Bakis, Tassos | 13,285.25 |
| 92-CV-0931 | Lockhart, Myron | Dismissed |
| 92-CV-0936 | Ramos, Hector | 2,767.68 |
| 92-CV-0939 | Watts, Shirley A. | 4,194.70 |
| 92-CV-0940 | Brummitt, Markum V. | 4,100.28 |
| 92-CV-0943 | Currie, Michael | 7,038.37 |
| 92-CV-0952 | Mashburn, Terry Lynn | 400.27 |
| 92-CV-0953 | McGuire, Kenneth | 989.73 |
| 92-cv-0958 | Taylor, Gregory | 9,455.77 |
| 92-CV-0962 | Zaghloul, Irfet | 25,000.00 |
| 92-CV-0963 | Cheeks, Rita Y. | 780.00 |
| 92-CV-0965 | Duffy, Vincent | 118.62 |
| 92-CV-0966 | Green, Beulah Harrington | 2,509.00 |
| 92-CV-0967 | Hawkins, Samuella | Dismissed |
| 92-cv-0975 | Lewis, Odessa | 1,209.14 |
| 92-CV-0976 | McNulty, Vicky | 401.50 |
| 92-CV-0977 | Pipowski, Sandra | 1,754.45 |
| 92-CV-0978 | Scott, Jayme | 11,754.31 |
| 92-CV-0982 | Wilson, Earl | Dismissed |
| 92-CV-0992 | Hall, Tyrone | Dismissed |
| 92-CV-0997 | Prinz, Karen J. | 1,000.00 |
| 92-CV-0998 | Prinz, Karen J. | 1,00000 |
| 92-CV-1001 | Werkmeister, John Alan | 1,379.70 |
| 92-CV-1005 | Brown, Delfenia | 3,000.00 |

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| 92-CV-1010 | Cowley, Nolen, Jr. | 2,940.30 |
| 92-CV-1014 | Horton, Gary R. | 3,000.00 |
| 92-CV-1017 | Tinoly, Theresa | 690.72 |
| 92-CV-1019 | Watkins, Mary Michelle | 197.60 |
| 92-CV-1024 | Grupta, Tej | Denied |
| 92-CV-1025 | Hoxie, Jacqueline C. | 10,869.81 |
| 92-CV-1028 | Kinermon, Solomon | 19,462.65 |
| 92-CV-1029 | Lamar, Mayme E. | Denied |
| 92-CV-1030 | Lamar, Mayme | Denied |
| 92-CV-1031 | Lamar, Mayme | Denied |
| 92-CV-1033 | Lamar, Mayme E. | Denied |
| 92-CV-1034 | Lang, William F. | 16,972.45 |
| 92-CV-1035 | Marquez, Edgar D. | Denied |
| 92-CV-1038 | Talbert, Darryl | 16,733.89 |
| 92-CV-1039 | Weglinski, Ronald F. | 675.75 |
| **92-CV-1040** | Weinberg, Bradley M. | Denied |
| 92-CV-1041 | Wiggs, Anne | 3,000.00 |
| 92-CV-1047 | Grigsby, Rubye | 2,910.23 |
| 92-CV-1050 | Moir, Robert R., Jr. | 9,273.89 |
| 92-CV-1053 | Stewart, Clay Sean | Denied |
| 92-CV-1055 | Bechtold, Robert C. | 3,046.97 |
| 92-CV-1056 | Clinton, Willie Mae | 3,000.00 |
| 92-CV-1058 | Fowler, Agnes M. | 3,000.00 |
| 92-CV-1063 | Jackson, Carl | Dismissed |
| 92-CV-1064 | McNaughton, Carleen A. | 12,926.00 |
| 92-CV-1065 | Robinson, Elizabeth | Dismissed |
| 92-CV-1071 | Hall, Beverlyn | 945.00 |
| 92-CV-1072 | Klosowski, Zolzislow | 90.90 |
| 92-CV-1076 | Perez, Minerva | 3,000.00 |
| 92-CV-1081 | Williams, Willa Mae | 3,000.00 |
| 92-CV-1086 | Hernandez, Rene | 290.00 |
| 92-CV-1087 | Hernandez, Rosalia | 457.00 |
| 92-CV-1096 | Parks, Tonya | Denied |
| 92-CV-1100 | Scott, Anthony D. | Denied |
| 92-CV-1103 | Travis, Marguerite & Carla | 10,902.15 |
| 92-CV-1104 | Vance, Karen | 144.84 |
| 92-CV-1106 | Campbell, Denise M. | Denied |
| 92-CV-1107 | Carlson, Holger N. & Roger K. | 25,000.00 |
| 92-CV-1110 | Davis, Annie &Johnson, Lisa Marie | 25,000.00 |
| 92-CV-1111 | De La Rosa, Linda Sue | 25,000.00 |
| 92-CV-1113 | Forman, Jozell | 3,000.00 |

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| 92-CV-1115 | Irons, Henry | Denied |
| 92-CV-1116 | Johnson, Sarah | 230.00 |
| 92-CV-1119 | Mack, Burt | 1,728.52 |
| 92-CV-1123 | Morales, Maria | 3,000.00 |
| 92-CV-1125 | O'Neal, Jeanette | 3,025.00 |
| 92-CV-1127 | Quade, Richard | Dismissed |
| 92-CV-1130 | Suares, Juan | Denied |
| 92-CV-1131 | Tolbert, Mattie P. | 2,529.80 |
| 92-CV-1133 | Williams, Serena | Denied |
| 92-CV-1135 | Zubi, Ghazi | Dismissed |
| 92-CV-1137 | Mendez, Jose L. | 1,181.80 |
| 92-CV-1138 | Melemed, Diane Alice Kelderman | Dismissed |
| 92-CV-1140 | Burgielski, Krzysztof | 501.25 |
| 92-CV-1143 | Dutton, Ora L. | 3,000.00 |
| 92-CV-1144 | Evans, Sean J. | 1,519.12 |
| 92-CV-1147 | Newbern, Pearlie | Dismissed |
| 92-CV-1150 | Rush, James C. | Denied |
| 92-cv-1153 | Wilkerson, Adrienne R. | 3,000.00 |
| 92-CV-1154 | Zand, Amir | Dismissed |
| 92-CV-1157 | Burdette, Molly M. | 175.87 |
| 92-CV-1168 | Sinkuler, Rose | 837.55 |
| 92-CV-1169 | Smith, Collins | 25,000.00 |
| 92-CV-1171 | Veach, Kenneth Alan | Denied |
| 92-CV-1172 | Agnew, Lamont | 4,836.54 |
| 92-CV-1174 | Brooks, Patricia | 3,000.00 |
| 92-CV-1175 | Churchill, Robyn C. | 910.18 |
| 92-CV-1176 | Culbreath, Philomena & Reed, Charonda | 25,000.00 |
| 92-CV-1177 | Cutright, Roy Lee | Denied |
| 92-CV-1178 | Dehner, Lori L. | 993.13 |
| 92-CV-1179 | Guyton, Steven | Denied |
| 92-CV-1181 | Henger, Eva | 25,000.00 |
| 92-CV-1185 | Parks, Tonya | Denied |
| 92-CV-1190 | Swink, Mark Anthony | 25,000.00 |
| 92-CV-1191 | Townsend, Rita | 1,525.50 |
| 92-CV-1193 | Walker, Earl D. | 3,000.00 |
| 92-CV-1194 | Watts, Sterling | Dismissed |
| 92-cv-1198 | Dorsett, Jerome | 958.60 |
| 92-CV-1202 | Grogan, Richard | 3,000.00 |
| 92-CV-1204 | Jones, Jamesetta Ford | 3,000.00 |
| 92-CV-1206 | Langdon, Birdie L. | 3,000.00 |
| 92-CV-1210 | Roberson, Gladys | Denied |

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|---|---|---|
| 92-CV-1213 | Barajas, Antonio | 4,761.70 |
| 92-CV-1214 | Sims, Beverly D. | Denied |
| 92-CV-1215 | Askew, Thomas | 8,521.25 |
| 92-CV-1217 | Beyer, Patricia A. | Denied |
| 92-CV-1224 | Huelsmann, Karen Marie | 189.20 |
| 92-CV-1232 | Smith, Dean F. | 630.00 |
| 92-CV-1234 | Balawender, Sabina | 4,915.30 |
| 92-CV-1240 | Gassen, Steven M. | 1,188.00 |
| 92-CV-1244 | Jerdme, Antoinette | 289.70 |
| 92-CV-1247 | Mackey, Jerry | 42.94 |
| 92-CV-1248 | Miles, Beatrice | 2,999.66 |
| 92-CV-1249 | Muhammad, Hasan | 12,606.50 |
| 92-CV-1253 | Seifert, Cynthia | Dismissed |
| 92-CV-1254 | Skorupski, Slawomir | 5,265.39 |
| 92-CV-1256 | Todd, Jimmie Lee | Denied |
| 92-cv-1259 | Weatherspoon, Heath A. | 16,987.25 |
| 92-cv-1262 | Balog, Zoltan | Denied |
| 92-CV-1263 | Blassingill, Bessie | 285.00 |
| 92-CV-1267 | DeVriendt, Richard C. | 357.35 |
| 92-CV-1268 | Fernandez, Andres Rico | 4,227.01 |
| 92-CV-1269 | Jamerson, Exerlee | 3,000.00 |
| 92-CV-1270 | Jurevis, John A. | 2,925.00 |
| 92-CV-1271 | Mason, Sereta R. | 3,000.00 |
| 92-CV-1272 | McMurtry, Minnie Catherine Corley | Denied |
| 92-CV-1276 | Weber, Robert E. | 2,897.79 |
| 92-CV-1278 | Smith, Tiffany | 554.00 |
| 92-CV-1279 | Bensen, Kenneth W. | 1,531.78 |
| 92-cv-1281 | Wallander, Elizabeth Anne | Denied |
| 92-CV-1284 | Baum, Rita L. | 25,000.00 |
| 92-CV-1290 | Ellis, Isaac | 3,000.00 |
| 92-CV-1291 | Fox, Augustine | 3,000.00 |
| 92-cv-1292 | Green, Casey J., Jr. | Denied |
| 92-CV-1293 | Johnson, Frank M. | 1,575.48 |
| 92-CV-1297 | Morrison, Jo Ann M. | 3,000.00 |
| 92-CV-1298 | Munson, Michael J. | 482.55 |
| 92-CV-1301 | Weller, Lois Ann | 1,005.64 |
| 92-CV-1302 | Whittaker, Jurlean | 3,000.00 |
| 92-CV-1304 | Williams, Larry A. | 3,231.28 |
| 92-CV-1305 | Tejeda, Jaime | 106.39 |
| 92-CV-1307 | Anderson, Alice | 3,000.00 |
| 92-CV-1309 | Brown, Roosevelt | 3,000.00 |

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|---|---|---|
| 92-CV-1316 | Johnson, Tyrone | Denied |
| 92-CV-1322 | Ready, Ann Marie | 2,183.34 |
| 92-CV-1324 | Shannon, Donald H. | 4,450.00 |
| 92-CV-1332 | Drabik, Carole Frances | 203.00 |
| 92-CV-1336 | Marley, Phillip | 5,560.61 |
| 92-CV-1337 | McCrae, June Cook Bey | 372.50 |
| 92-CV-1338 | Milford, Diane Mane | Dismissed |
| 92-CV-1339 | Myers, Donald | Denied |
| 92-CV-1347 | Borgersen, Alan Lee | 3,698.64 |
| 92-CV-1349 | Brown, Richard | Denied |
| 92-CV-1350 | Darling, John B. | 568.28 |
| 92-CV-1351 | Epperson, Cortez | Dismissed |
| 92-CV-1352 | Gray, Benjamin A. | 3,000.00 |
| 92-CV-1353 | Irving, Joseph, Sr. | 3,000.00 |
| 92-CV-1358 | Shaw, Julius 1. | 3,611.49 |
| 92-CV-1362 | Barnes, Geneva | 3,000.00 |
| 92-CV-1367 | Mohawk, Peter A. | 220.62 |
| 92-CV-1368 | Molina, Juan Manuel | 834.95 |
| 92-CV-1375 | Bardney, Dons J. | Denied |
| 92-CV-1377 | Cosey, Dorothy | 67.16 |
| 92-CV-1378 | Folan, Mark | 946.65 |
| 92-CV-1382 | Jones, Sharon K. | 3,852.10 |
| 92-CV-1384 | McClinton, Kelvin | 3,000.00 |
| 92-CV-1390 | Salmons, Rebecca L. | 150.00 |
| 92-CV-1393 | Smith, Douglas E. | Denied |
| 92-CV-1395 | Sykes, Ivory | 3,000.00 |
| 92-CV-1397 | Chevis, Mabel | 3,000.00 |
| 92-CV-1402 | Jones, Marjorie | 2,545.50 |
| 92-CV-1409 | Scott, Moline | Denied |
| 92-CV-1411 | Lee, Vera | Dismissed |
| 92-CV-1415 | Elbiaadi, Adel | 750.94 |
| 92-CV-1418 | Hudec, Elvira | 3,000.00 |
| 92-CV-1428 | Bland, Hazel R. | 2,986.65 |
| 92-CV-1441 | Regnier, Doris A. | 3,039.20 |
| 92-CV-1442 | Ross, Andemette | 3,000.00 |
| 92-CV-1445 | Stewart, Gadai | 3,000.00 |
| 92-CV-1446 | Wiggenjost, Joann | Denied |
| 92-CV-1450 | Bulkiewicz, Joseph | Reconsidered Denid |
| 92-CV-1453 | Dunn, Lillie | Denied |
| 92-CV-1459 | Baker, Jessica | 1,420.00 |
| 92-CV-1463 | Lieber, Charlene B. | 130.06 |

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|---|---|---|
| 92-CV-1466 | Anderson, Betty L. | Denied |
| 92-CV-1467 | Bland, Remona | Denied |
| 92-CV-1468 | Brown, Linda | Denied |
| 92-CV-1470 | Darling, Arleen | Denied |
| 92-CV-1471 | Elizalde, Douglas | 3,935.00 |
| 92-CV-1481 | McKnight, Cynthia | Denied |
| 92-CV-1482 | Pedote, Sheila Teresa | Dismissed |
| 92-CV-1486 | Cannon, Bobby | 3,000.00 |
| 92-CV-1491 | Jones, Geraldine E. & Vickie L. | 25,000.00 |
| 92-CV-1494 | Matthews, Theresa **L.** | 3,000.00 |
| 92-CV-1499 | Adams, Victoria A. | 2,110.00 |
| 92-CV-1503 | Caples, Lewis C. | 533.92 |
| 92-CV-1505 | Escobar, Milagros | 3,000.00 |
| 92-CV-1508 | Knox, Mary | 340.00 |
| 92-CV-1512 | Smith, Eddie | 3,909.96 |
| 92-cv-1513 | Spencer, Mickey | Dismissed |
| 92-cv-1515 | Gosmen, Guy | Dismissed |
| 92-CV-1516 | Davis, Fannie Mae | 2,207.00 |
| 92-cv-1523 | Rogers, Donald R. | Dismissed |
| 92-cv-1524 | Sauseda, Vincent | 3,000.00 |
| 92-cv-1528 | Webster, Georgia M. | 2,020.60 |
| 92-cv-1532 | Brown, Cliffie | Dismissed |
| 92-cv-1535 | Coffey, James, Sr. | Denied |
| 92-CV-1536 | Cox, Annette | 22.02 |
| 92-CV-1537 | Etheridge, Joshua | Denied |
| 92-CV-1539 | Hanson, Mary | 2,539.52 |
| 92-CV-1543 | Hudson, Gerard D. | 970.00 |
| 92-CV-1544 | Marshall, Loretta P. | Denied |
| 92-CV-1548 | Palmer, Roman **M.** | 830.45 |
| 92-CV-1549 | Rhodes, Pamela | Denied |
| 92-CV-1550 | Rockett, Carolyn R. & Moore-Jackson, Elizabeth | 1,538.90 |
| 92-CV-1551 | Suranovic, Margaret | **540.44** |
| 92-CV-1556 | Anderson, Mary | 490.00 |
| 92-CV-1558 | Coffey, Connie L. | 3,000.00 |
| 92-CV-1561 | Diggs, Edna M. | 2,368.13 |
| 92-CV-1562 | Fox, Augustine | Dismissed |
| 92-CV-1563 | Gonzalez, Edilia | Denied |
| 92-CV-1564 | Gonzalez, Edilia | 2,525.00 |
| 92-CV-1570 | McAfee, Ray Anthony | Dismissed |
| 92-CV-1572 | Smith, Rosemary | 523.45 |

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|---|---|---|
| 92-CV-1573 | Trankina, Daniel Edward | Denied |
| 92-CV-1576 | Mann, *Gary* C. | 25,000.00 |
| 92-CV-1577 | Anderson, Juanita | Denied |
| 92-CV-1580 | Cunnally, Roberta | 841.50 |
| 92-CV-1587 | Calerway, LaShun | 4,763.00 |
| 92-CV-1594 | Weinert, Glenn W. | 137.99 |
| 92-CV-1598 | Adedeji, Shola | 507.10 |
| 92-CV-1603 | Hawkins, Delores | 3,000.00 |
| 92-CV-1608 | Milton, Bobbie | 1,055.00 |
| 92-CV-1610 | Quaderer, William | Denied |
| 92-CV-1616 | Brooks, Barbara J. | Denied |
| 92-CV-1617 | Burns, Ronald C. | 142.50 |
| 92-CV-1618 | Chereck, Allen **A.** | 3,000.00 |
| 92-CV-1619 | Dover, Jamie Kathryn | 23,260.84 |
| 92-CV-1620 | Dover, Mark, Jr. | 90.02 |
| 92-CV-1622 | Hardy, Tom | 210.00 |
| 92-CV-1630 | Williams, Cathy **L.** | Denied |
| 92-CV-1631 | Nelson, Raymond J. | 2,254.20 |
| 92-CV-1640 | Roach, Jeannette | Denied |
| 92-CV-1645 | Clemons, Rosemary | Denied |
| 92-CV-1649 | Holden, Kristine **L.** | 690.00 |
| 92-CV-1654 | Munn, Terrence Lee | 771.61 |
| 92-CV-1659 | Trent, Mack C. | Denied |
| 92-CV-1661 | Vihon, Jerry | 293.89 |
| 92-CV-1666 | Crainich, Clyde V. | 808.57 |
| 92-CV-1676 | Votava, Beverly R. | 3,170.26 |
| 92-CV-1680 | McDaniel, Joseph **L.** | 3,262.42 |
| 92-CV-1681 | Blount, John | Dismissed |
| 92-CV-1684 | Gaston, Lula | 883.30 |
| 92-CV-1685 | Mays, Charles R. | 16,043.37 |
| 92-CV-1691 | Wilcox, Mary | 3,191.35 |
| 92-CV-1693 | Steward, Linda D. | 988.42 |
| 92-CV-1694 | Clark, James Don &Jones, Patricia | 25,000.00 |
| 92-CV-1696 | Harris, Emma | 500.00 |
| 92-CV-1697 | King, John R. | 1,254.00 |
| 92-CV-1700 | Torres, Thomas | 2,393.60 |
| 92-CV-1701 | Van Horn, Harriet | 3,000.00 |
| 92-CV-1702 | Vasallo, Nayra | 25,000.00 |
| 92-CV-1710 | Gillespie, Kevin | 2,046.37 |
| 92-CV-1712 | Harris, Donzella Barrow | Denied |
| 92-CV-1713 | Harris, Lillie Mae | 3,000.00 |

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|---|---|---|
| 92-CV-1718 | Mays, Andrea L. & Thomas, Teresa L. | 2,437.00 |
| 92-CV-1719 | Rothe, Thomas Herbert | 1,361.25 |
| 92-CV-1727 | Hill, Evelyn | 3,000.00 |
| 92-CV-1732 | Mathews, Elnora P. & Hall, Louise L. | 3.000.00 |
| 92-CV-1733 | Martinez, Delfina | 3,000.00 |
| 92-CV-1734 | Pint, Daniel A. | Denied |
| 92-CV-1740 | Wesol, Todd S. | 25,000.00 |
| 92-CV-1744 | Armstrong, Shirley | 3,000.00 |
| 92-cv-1745 | Clark, Leonard | 23,628.09 |
| 92-CV-1746 | Coleman, Rosie Lee | 2,170.00 |
| 92-CV-1747 | Dawson, Derrick | 265.40 |
| 92-cv-1750 | Drake-Patargeas, Ann | 46.29 |
| 92-CV-1757 | Ivanov, Stefan Stoyanov | 9,248.60 |
| 92-CV-1763 | Perez, Angelo Gino | Denied |
| 92-cv-1765 | Barnes, Joann | 165.78 |
| 92-CV-1766 | Brown, **Lenita M.** | 3,000.00 |
| 92-CV-1767 | Bruno, Berta | 751.37 |
| 92-CV-1768 | Calderon, Elvira & Serafin | 25,000.00 |
| 92-CV-1771 | Diosdado, Maria Del Carmen | 3,302.00 |
| 92-CV-1775 | Hayes, Fannie **O.** | 448.50 |
| 92-CV-1776 | Hunter, Nita | 350.00 |
| 92-CV-1781 | Morgan, Kenneth | Denied |
| 92-CV-1786 | Blount, John, Jr. | 10,000.00 |
| 92-CV-1790 | Eskridge, Lynda | 8,114.55 |
| 92-CV-1791 | Jalinke, Kathy | 479.50 |
| 92-CV-1792 | Jefferson, Mary | 2,892.00 |
| 92-CV-1797 | Summers, Alvin C. | Denied |
| 92-CV-1798 | Sylvester, Linda Anne | Reconsidered Denial |
| 92-CV-1799 | Beasley, Bonnie | 293.30 |
| 92-CV-1802 | Graham, Ninno **O.** | 6,995.13 |
| 92-CV-1806 | Malone, Dennis | 23,413.39 |
| 92-CV-1807 | Martinez, Magdalena | 1,750.08 |
| 92-CV-1808 | Miron, Denise M. | 453.00 |
| 92-CV-1809 | Ollison, Robbie M. | 2,545.00 |
| 92-CV-1810 | Richards, Emma | 661.16 |
| 92-CV-1820 | Davis, Shirley & Williams, Herbert Randall, Sr. | Denied |
| 92-CV-1824 | Jones, Sheila | 780.00 |
| 92-CV-1827 | Liapes, John J. | 884.41 |
| 92-CV-1828 | Murphy, Alice | Denied |
| 92-CV-1829 | Randolph, Robbie | 3,000.00 |

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|---|---|---|
| 92-CV-1834 | Busch, Ralph | Denied |
| 92-CV-1836 | Cruz, Hector | 8,455.88 |
| 92-CV-1840 | Moore, Robert L., Sr. | 3,000.00 |
| 92-CV-1843 | Romo, Maltilde | Dismissed |
| 92-CV-1849 | Carter, Fred | 7,754.76 |
| 92-CV-1851 | Guzman, Robert A. | 203.42 |
| 92-CV-1852 | Holewinski, William N. | Denied |
| 92-CV-1854 | Langdon, Birdie L. | 3,000.00 |
| 92-CV-1855 | Lawson, Okabena | 3,000.00 |
| 92-CV-1856 | Mayo, Elaine Cynthia | Denied |
| 92-CV-1857 | McFarland, Kenneth | Denied |
| 92-CV-1858 | Metsch, Eugene R. | Denied |
| 92-CV-1864 | Taff, Richard A. | 2,932.45 |
| 92-CV-1865 | Adams, Cynthia | Denied |
| 92-CV-1866 | Buffo, Antonio D. | 8,540.80 |
| 92-CV-1874 | Miller, Mark W. | 106.40 |
| 92-CV-1875 | Murdock, Christine | 3,000.00 |
| 92-CV-1878 | Perryman, Lafayette | 4,133.50 |
| 92-CV-1880 | Richardson, **Mary** | 5,400.00 |
| 92-CV-1882 | Tate, Frank | Denied |
| 92-CV-1885 | Bryer, Nina **M.** & Gender, Debra R. | Denied |
| 92-CV-1889 | Liggett, Dale A. | 1,939.79 |
| 92-CV-1894 | Conner, Donald S. | 3,000.00 |
| 92-CV-1896 | Hampton, Darrell | Denied |
| 92-CV-1898 | Malawski, Frances G. | 3,000.00 |
| 92-CV-1900 | Paracha, Mohammad Ali | Denied |
| 92-CV-1905 | Choate, Robert G. | Denied |
| 92-CV-1910 | Mavraganis, Nick G. | 21,469.55 |
| 92-CV-1913 | Readus, Cherry | Denied |
| 92-CV-1918 | Bodie, Georgia | 3,000.00 |
| 92-CV-1922 | Davis, Jacqueline M. | 1,444.07 |
| 92-CV-1929 | Ramos, Jose A. | **3,000.00** |
| 92-CV-1931 | Walker, Karen C. | 2,134.00 |
| 92-CV-1933 | Brown, Lashan | Denied |
| 92-CV-1935 | Hernandez, Alejandro | 14,954.92 |
| 92-CV-1936 | Magin, Lynne C. | 729.20 |
| 92-CV-1940 | Smith, Irma Wesley | Denied |
| 92-CV-1943 | Bor, James M. | Denied |
| 92-CV-1946 | Loleng, Albert R. | 1,486.65 |
| 92-CV-1950 | Smith, Richard | Denied |
| 92-CV-1955 | Davis, Paula K. | 4,583.00 |

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|---|---|---|
| 92-CV-1957 | Duranczyk, Wesley | 978.80 |
| 92-CV-1963 | Porter, Deon | Denied |
| 92-CV-1964 | Roy, Linda **L.** | 1,720.12 |
| 92-CV-1976 | Plienas, Andrew | 816.50 |
| 92-CV-1979 | Thompson, Maxine | 3,000.00 |
| 92-CV-1981 | Winchester, Cheryl | Denied |
| 92-CV-1985 | Davis, Kevin **R.** | Denied |
| 92-CV-1986 | Evans, Thomas J. | 13,307.60 |
| 92-CV-1993 | Moore, Hazel M. | 2,660.15 |
| 92-CV-1994 | Patton, Annie | 3,000.00 |
| 92-CV-1997 | Walls, Malcolm | 7,503.86 |
| 92-CV-2000 | Braun, Christine Cahill | 3,000.00 |
| 92-CV-2004 | Hale, Lloyd **R.,** Sr. | 2,829.40 |
| 92-CV-2020 | Cotton, Essie | Denied |
| 92-CV-2023 | Erjavec, Jerry J. | Denied |
| 92-CV-2024 | Foster, Dollie | Dismissed |
| 92-cv-2025 | Gilliam, Katherine | 25,000.00 |
| 92-CV-2026 | Hodges, Jerdine | 3,000.00 |
| 92-CV-2033 | Sittnick, Donald F. | Denied |
| 92-cv-2035 | Wallace, Marjorie | 3,203.00 |
| 92-CV-2042 | Brakie, Karen | Denied |
| 92-CV-2046 | Doyle, Patrick S. | 458.02 |
| 92-cv-2048 | Etchason, Catherine & Leland E. | 3,000.00 |
| 92-CV-2049 | Giambone, Lucille | Denied |
| 92-CV-2053 | McNeese, Timothy | Denied |
| 92-CV-2055 | Moss, Willie | 25,000.00 |
| 92-CV-2058 | Scheel, Sandra L. | 832.50 |
| 92-cv-2059 | Spencer, Shannon Cliarise | 25,000.00 |
| 92-CV-2060 | Steele, Carol | 3,000.00 |
| 92-CV-2061 | Stolz, Kevin Jay | 4,586.83 |
| 92-CV-2064 | Williams, Louise | 25,000.00 |
| 92-CV-2070 | McGraw, Michael J. | Denied |
| 92-CV-2073 | Siddiq, Mikail A. | 1,871.88 |
| 92-CV-2076 | Sutton, Charles | 425.00 |
| 92-CV-2077 | Yu, San Yip | 792.32 |
| 92-cv-2080 | Austin, Pearlean H. & Hoard, Loretta | 3,000.00 |
| 92-CV-2081 | Benson, Barbara | 1,428.34 |
| 92-cv-2082 | Coleman, Phyllis | 3,000.00 |
| 92-CV-2083 | Dabner, Patsy | 3,000.00 |
| 92-cv-2084 | Dillard, Arthur J. | 15,859.40 |
| 92-CV-2088 | Howell, Curtis | 593.75 |

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|---|---|---|
| 92-cv-2089 | Guivas, Ivelisse | 25,000.00 |
| 92-CV-2091 | Logsdon-Updike, Jennifer Robyn | 3,197.30 |
| 92-CV-2095 | Russell, Sherri Lynn | Dismissed |
| 92-CV-2101 | Sutton, Gracie | Denied |
| 92-CV-2103 | Thornton, Rosie | Denied |
| 92-CV-2105 | Watson, Cathelyn | Denied |
| 92-CV-2110 | Derfler, Teresa A. | 4,317.03 |
| 92-CV-2111 | Ellis, Leroy R. & Leroy | 4,877.74 |
| 92-CV-2112 | Evans, Ronald A. | 15,695.56 |
| 92-CV-2113 | Gray, Brenda | 2,282.00 |
| 92-CV-2116 | Mitchell, Charles E. | 252.54 |
| 92-CV-2119 | Webb, Steve | Denied |
| 92-CV-2120 | Robinson, Stephanie | 280.00 |
| 92-CV-2121 | Ascar, Philippe | 1,136.00 |
| 92-CV-2122 | Gaffney, Joseph John | 3,000.00 |
| 92-CV-2123 | Bell, Thomas | Denied |
| 92-CV-2125 | Brodie, Julie | 359.95 |
| 92-CV-2126 | Erving, Walter & Barbara | 3,000.00 |
| **92-CV-2133** | **Marshall, Columbus** | **3,000.00** |
| 92-CV-2135 | Palomo, John | 1,260.00 |
| 92-CV-2136 | Perkins, Beulah | 3,000.00 |
| 92-CV-2142 | Braun, Cheryl A. | 586.00 |
| 92-CV-2146 | Corder, Sharon Elaine | Denied |
| 92-CV-2148 | Farrier, Alan Byars | 8,269.44 |
| 92-CV-2149 | Flores, Theresa | 25,000.00 |
| 92-CV-2155 | McGuire, Kenneth | Dismissed |
| 92-CV-2157 | O'Brien, Jill | 1,354.70 |
| 92-CV-2159 | Payne, Anthony S. | 700.00 |
| 92-CV-2160 | Rogers, Larry | 2,951.50 |
| 92-CV-2164 | Van Spybrook, Richard C. | 1,999.63 |
| 92-CV-2165 | White, Alfreda | 3,000.00 |
| 92-CV-2166 | Anzelmo, Debra A. &James F. | 3,000.00 |
| 92-CV-2167 | Armstead, Eamestine Wilson | 1,907.04 |
| 92-CV-2185 | Stith, Merdie V. | 3,000.00 |
| 92-CV-2192 | Aizobi, Ahmad | 1,339.41 |
| 92-CV-2195 | Frazier, Leola | Denied |
| 92-CV-2200 | Morns, Charlotte | 3,000.00 |
| 92-CV-2204 | Stein, Lillian L. | Denied |
| 92-CV-2206 | Van Dyke, Mary | 3,000.00 |
| 92-cv-2208 | Whitlow, Lisa | 221.42 |
| 92-CV-2210 | Haynes, Sharon & Simon | 3,000.00 |

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|---|---|---|
| 92-CV-2211 | Hughes, Oteria | Denied |
| 92-CV-2213 | Lewis, Belgian | 23,403.87 |
| 92-CV-2215 | Metallides, Mary | 38.00 |
| 92-CV-2220 | Shelton, Ella D. | 5,296.20 |
| 92-CV-2221 | Smith, Benjamin | Dismissed |
| 92-CV-2223 | Anna, Elsie | 353.70 |
| 92-CV-2224 | Coulter, Vera L. | Denied |
| 92-CV-2234 | Guzman, Jose | Denied |
| 92-CV-2238 | Thomas, Linda M. | 2,730.50 |
| 92-CV-2239 | Williams, Marvella A. | Denied |
| 92-CV-2242 | Anderson, Varine | 1,437.33 |
| 92-CV-2243 | Anderson, Varine | 1,439.49 |
| 92-CV-2246 | Dagenais, Beverly D. | 909.88 |
| 92-CV-2249 | Jennings, Howard C. | 435.40 |
| 92-CV-2252 | Perkins, Mattie &Walker, Brenda E | 25,000.00 |
| 92-cv-2258 | Brown, Betty | 3,906.00 |
| 92-CV-2259 | Hardaway, Lydia | Denied |
| 92-CV-2264 | Mendez, Alicia | 3,000.00 |
| 92-CV-2271 | Felger, Carol A. | 486.00 |
| 92-CV-2274 | Gut, Bernice M. | 6,114.15 |
| 92-CV-2277 | Hayes, John | 529.00 |
| 92-cv-2280 | Kumaran, Sampath | Reconsidered Dismissal |
| 92-CV-2281 | Mendez, Carmen | 1,263.65 |
| 92-CV-2284 | Waters, Dinishiai Diane | Denied |
| 92-CV-2286 | Avila, Mary | 3,000.00 |
| 92-CV-2296 | Gresser, John P. | 971.20 |
| 92-CV-2299 | Kennedy, Annie K. | 1,863.55 |
| 92-CV-2300 | Lando, Catherine | 405.41 |
| 92-CV-2312 | Stahl, Evelyn Marie | Denied |
| 92-CV-2313 | Stahl, Tammy Marie | 840.00 |
| 92-CV-2317 | Willis, Elizabeth | 2,176.44 |
| 92-CV-2320 | Conley, Ronald Charles, Jr. | Denied |
| 92-CV-2321 | Gonzales, Manuel & Trinidad | 9,610.00 |
| 92-CV-2324 | Horton, James, Jr. | 3,000.00 |
| 92-CV-2326 | Joiner, Edna | 1,993.91 |
| 92-CV-2328 | Martinez, Luis M. | 6,780.18 |
| 92-CV-2329 | Mikolaszuk, Edward | 6,614.80 |
| 92-CV-2333 | Vilaro, Judy A. | 3,496.80 |
| 92-CV-2341 | Mercado, Sylvano | Denied |
| 92-CV-2343 | Peck, Gregory | 4,303.06 |
| 92-CV-2349 | Euell, Edward E. | Denied |

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|---|---|---|
| 92-CV-2353 | Lewis, Robert | Dismissed |
| 92-CV-2354 | Rios, Rosario | 3,000.00 |
| 92-CV-2357 | Bass, Glenda J. | Denied |
| 92-cv-2358 | Barker, Ivory J. | 125.00 |
| 92-CV-2359 | Bass, Glenda J. | 2,502.90 |
| 92-CV-2363 | Carpenter, James L., Sr. | 2,919.90 |
| 92-CV-2371 | Govermor, Johnnie | 2,286.24 |
| 92-CV-2373 | Horton, Sherman | Denied |
| 92-CV-2374 | Ivy, Lee H., Rev. | 2,540.00 |
| 92-cv-2378 | Massey, Evelyn | 2,258.68 |
| 92-CV-2379 | McCoy, James | Denied |
| 92-CV-2381 | Mendoza, Rosa M. | 25,000.00 |
| 92-cv-2382 | Petties, Shirley | 3,000.00 |
| 92-cv-2388 | Tiersky, Martin | 2,860.00 |
| 92-CV-2394 | Brunk, Daisy L. | 41.05 |
| 92-CV-2396 | Escobar, Gerardo | 776.05 |
| 92-CV-2397 | Faldzinski, Gilbert | 3,000.00 |
| 92-CV-2400 | Lockridge, Lorenzo | 12,853.32 |
| 92-CV-2401 | Ramos, William | Denied |
| 92-CV-2408 | Bortolotti, Brian A. | 11,358.39 |
| 92-CV-2409 | Butler, Evelynda | 3,000.00 |
| 92-CV-2411 | Dunbar, Jacqueline J. | 1,162.50 |
| 92-CV-2413 | Farber, James Samuel | 325.20 |
| 92-cv-2415 | Golden, Dexter M. | 17,469.78 |
| 92-CV-2417 | Grayson, William L. | 2,697.17 |
| 92-CV-2418 | Harper, Darrell | 2,586.57 |
| 92-CV-2419 | Henderson, Barry Moore | Denied |
| 92-CV-2422 | Noyola, Gloria | 3,000.00 |
| 92-CV-2431 | Tyler, Bea | 1,634.00 |
| 92-CV-2436 | Williams, Vicky | Denied |
| 92-CV-2437 | Yarbrough, Shirley | 3,000.00 |
| 92-CV-2438 | Zyla, Michael M. | 2,029.25 |
| 92-CV-2440 | Alvear, Javelisse | 3,000.00 |
| 92-CV-2441 | Armenta, Francisco | Denied |
| 92-CV-2442 | Butler, Chester | 2,035.00 |
| 92-CV-2443 | Cherry, Cordall | 3,000.00 |
| 92-cv-2445 | Eckert, Marlene D. | 3,000.00 |
| 92-CV-2447 | McCurley, Jessie Marie | 3,000.00 |
| 92-CV-2448 | Moore, Dorothy Maria | 2,295.00 |
| 92-CV-2449 | Brown, Cedric A. | 442.00 |
| 92-CV-2455 | Alvarez, Augustine | 3.000.00 |

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|---|---|---|
| 92-CV-2469 | Parks, Spencer | Denied |
| 92-cv-2482 | Acevedo, Nereida | Denied |
| 92-cv-2483 | Alvarez, Marsha T. | 25,000.00 |
| 92-CV-2486 | Brown, Lois J. | 3,203.00 |
| 92-cv-2489 | Cosey, Johnnie | 3,000.00 |
| 92-CV-2492 | Johnson, Emma | 2,356.25 |
| 92-CV-2495 | Malone, Alice Joanne | 3,000.00 |
| 92-CV-2496 | Mason, Constance M. | 3,000.00 |
| 92-CV-2499 | Speights, Cedric | 2,893.17 |
| 92-CV-2508 | Deberry, Louise | 3,000.00 |
| 92-CV-2509 | Del Castillo, Rodolfo | 2,708.76 |
| 92-CV-2511 | Gill, Andrew | Denied |
| 92-CV-2512 | Gregory, Tburman | Denied |
| 92-CV-2513 | Hartage, Henry L. | 1,537.50 |
| 92-CV-2529 | Braboy, Rosie Lee | 2,481.14 |
| 92-CV-2531 | Czajka, Chester | Denied |
| 92-CV-2534 | Hernandez, Shawn Lee | 378.22 |
| 92-CV-2537 | Nash, Pamela | Denied |
| 92-CV-2552 | Mullins, Steave Kris | 25,000.00 |
| 92-CV-2554 | Pinkerton, Irma | 3,000.00 |
| 92-CV-2558 | Van Den Busch, Henry | Dismissed |
| 92-CV-2559 | Acevedo, Enrique | 2,328.00 |
| 92-CV-2563 | Butler, Lynnesther | 2,694.50 |
| 92-CV-2565 | Gray, Kenneth | 20,705.76 |
| 92-CV-2566 | Hyde, Georgia | 4,609.50 |
| 92-CV-2567 | Leonard, Mack | Dismissed |
| 92-CV-2570 | Scott, Rayford & Renee | Denied |
| 92-CV-2572 | Anderson, Antonio | Denied |
| 92-CV-2575 | Harper, Fredrick, III | Dismissed |
| 92-cv-2578 | Nicholson, Robert | 4,735.81 |
| 92-CV-2579 | Omar, Bashir | Denied |
| 92-cv-2581 | Raines, Jonita | 3,000.00 |
| 92-cv-2582 | Romero, Benny L. | 1,006.79 |
| 92-CV-2583 | Webb, Shelby | Denied |
| 92-CV-2584 | Williams, Thaddeus | 2,564.50 |
| 92-cv-2587 | Blackwell, Michael & Andre & Allen, Kenneth | 970.00 |
| 92-CV-2588 | Brooks, Jeanette | 226.80 |
| 92-CV-2589 | Campbell, Evelyn | 391.88 |
| 92-CV-2592 | Gaston, Patricia | 2,813.50 |
| 92-CV-2611 | McKinney, John | Denied |

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|---|---|---|
| 92-CV-2613 | Pepin, Yolanda | 849.90 |
| 92-CV-2618 | Brown, Rhueperda | 2,197.16 |
| 92-CV-2620 | Buckley, Lucas | Denied |
| 92-CV-2626 | Cystrunk, Lamar | Denied |
| 92-CV-2629 | Lomax, Joyce K. | 554.77 |
| 92-CV-2630 | Luciano, Marylinn | Dismissed |
| 92-CV-2631 | Mendez, Filiberto | 17,626.85 |
| 92-CV-2638 | Ramirez, Miguel, Sr. | 1,135.00 |
| 92-CV-2640 | Sivels, Laurence, Jr. | Reconsidered Denial |
| 92-CV-2644 | Williams, Jerry | Dismissed |
| 92-CV-2650 | Cunningham, Emma L. | 3,000.00 |
| 92-CV-2657 | Jones, Irving | Denied |
| 92-CV-2658 | Rivera, Angel G. | 3,000.00 |
| 92-CV-2660 | Skinner, Raymond | 3,000.00 |
| 92-CV-2661 | Stacken, Susan D. | Dismissed |
| 92-CV-2664 | Black, Tanya | 1,095.95 |
| 92-CV-2668 | DeMeyer, Laurie Anne | 16.88 |
| 92-CV-2670 | Hughes, Kimberly | Denied |
| 92-CV-2674 | Miller, Alphonso | Dismissed |
| 92-CV-2689 | Dunbar, Cheryl Laverne | Denied |
| 92-CV-2695 | Kurza, Andrzej | 9,839.14 |
| 92-CV-2697 | Lustberg, Michelle | 120.00 |
| 92-CV-2698 | Maciejewski, James | 8,722.63 |
| 92-CV-2704 | Price, Frederick | Dismissed |
| 92-CV-2709 | Vukmanic, Kathleen A. | 881.29 |
| 92-CV-2711 | Young, Linda | 3,000.00 |
| 92-CV-2713 | Bonert, John M. | 345.94 |
| 92-CV-2717 | Lindich, Albin A. | 25,000.00 |
| 92-CV-2718 | Loneman, Leslie | Denied |
| 92-CV-2721 | Stewart, Carolyn | 765.75 |
| 92-CV-2739 | Bethishov, Ed | Denied |
| 92-CV-2744 | Leal, Isaias | Denied |
| 92-CV-2749 | Rochelle, Debra | Denied |
| 92-CV-2754 | Tolbert, Rodney | 6,656.57 |
| 92-cv-2758 | Cleggett, Anthony | 25,000.00 |
| 92-CV-2759 | Douglas, Norma J. | 3,000.00 |
| 92-CV-2762 | Krueger, Robert B. | 3,000.00 |
| 92-CV-2769 | Rodriguez, George | 3,357.18 |
| 92-CV-2770 | Solorio, Frances | Denied |
| 92-CV-2774 | Chapetta, Darlene Carol | Denied |
| 93-CV-0001 | Buzikowski, Zenon | Denied |

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|---|---|---|
| 93-CV-0006 | Baxstrom, Arlinda D. | Denied |
| 93-CV-0014 | Diaz, Salvador | Dismissed |
| 93-CV-0019 | Ginenskaya, Rita | Denied |
| 93-CV-0022 | Grandbeny, Sheila | 3,000.00 |
| 93-CV-0025 | Hill, Willie | Denied |
| 93-CV-0026 | Hofer, Gary E. | Denied |
| 93-CV-0027 | Hoskins, Karen K. | 1,736.10 |
| 93-CV-0028 | Hudson, Jackie Lenarde | Denied |
| 93-CV-0033 | Karpman, Hymen | 472.90 |
| 93-CV-0037 | Luepke, David Charles | 1,539.70 |
| 93-CV-0044 | Pedote, Sheila T. | 25,000.00 |
| 93-CV-0050 | Sommer, Heather | Denied |
| 93-CV-0055 | Tripp, Herman | 1,251.00 |
| 93-CV-0056 | Vann, Juanita | 2,656.58 |
| 93-CV-0062 | Williams, Frettie J., Jr. | 1,224.05 |
| 93-CV-0063 | Williams, Walter, Jr. | 15,266.38 |
| 93-CV-0068 | Peeples, Shun | 19,439.95 |
| 93-CV-0069 | Anderson, David Mark | 1,165.15 |
| 93-CV-0071 | Camalick, Darrell W. | Denied |
| 93-CV-0075 | Crawford, Iralee | Denied |
| 93-CV-0078 | Fletcher, Nancy | 2,003.50 |
| 93-CV-0082 | Haynes, Johnnie | 3,000.00 |
| 93-CV-0086 | Jones, Charita A. | 13,431.01 |
| 93-CV-0099 | Collins, Earl | 14,200.00 |
| 93-CV-0108 | Kerby, Betty | 2,113.30 |
| 93-CV-0109 | Lichtenfeld, Alisa | 44.79 |
| 93-CV-0117 | Shumpert, Mona | Dismissed |
| 93-CV-0118 | Wagoner, Judy M. | 25,000.00 |
| 93-CV-0121 | Cole, Rev. John L., &Willie | 3,000.00 |
| 93-CV-0129 | Erving, Sandra | 167.89 |
| 93-CV-0130 | Erving, Sandra | 2,464.50 |
| 93-CV-0132 | Hill, Robert M. | Denied |
| 93-CV-0135 | Jones, Diana | 1,834.50 |
| 93-CV-0137 | Nigro, Linda | Denied |
| 93-CV-0138 | Noble, Lee K. | 2,179.62 |
| 93-CV-0139 | Patton, Teresa D. | 3,030.00 |
| 93-CV-0141 | Purnell, Elizabeth | 181.80 |
| 93-CV-0145 | Watkins, David | 3,000.00 |
| 93-CV-0147 | Bass, John A. | 894.70 |
| 93-CV-0157 | Mason, Barbara | Dismissed |
| 93-CV-0164 | Hudson, Emma | 3,000.00 |

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|---|---|---|
| 93-CV-0167 | Kimball, Kimberly A. | 2,491.54 |
| 93-CV-0170 | Lewis, James E. | 372.50 |
| 93-CV-0182 | Cherry, Howard E. | 3,000.00 |
| 93-CV-0195 | Mayes, Jerel | Denied |
| 93-CV-0198 | Menconi, Dorian Dean | Denied |
| 93-CV-0200 | Perkins, Crystal L. | 341.00 |
| 93-CV-0204 | Teague-Bryant, Carol A. | 4,622.44 |
| 93-CV-0216 | Easley, Ethel L. | 3,000.00, |
| 93-CV-0222 | Ramsey, Lorraine | 959.00 |
| 93-CV-0223 | Abdussabur, Malak I. | 1,680.30 |
| 93-CV-0227 | Oliver, Edna | 311.60 |
| 93-CV-0233 | Adamczyk, Artur | 25,000.00 |
| 93-CV-0239 | Doyle, Donald | 650.97 |
| 93-CV-0246 | Pepper, Evelyn M. | 3,000.00 |
| 93-CV-0251 | Webb, Dorothy | 2,423.00 |
| 93-CV-0255 | Carroll, Nell A. | 223.65 |
| 93-CV-0257 | Cherrington, Peggy A. | 5,475.46 |
| 93-CV-0259 | Esho, Robin R. | 25,000.00 |
| 93-CV-0271 | Palmer, Nathaniel | 2,064.20 |
| 93-CV-0273 | Salinas, Eva R. | 4,664.82 |
| 93-CV-0280 | Abraham, Solomon | 1,149.00 |
| 93-CV-0286 | Cummings, *Gary* A. | 2,071.54 |
| 93-CV-0288 | Depratto, Jimmie L. | 1,436.50 |
| 93-CV-0290 | Hammel, Kevin A. | Denied |
| 93-CV-0291 | Horton, Joyce | 3,000.00 |
| 93-CV-0292 | Ignatowski, Marian | 3,000.00 |
| 93-CV-0298 | Nathan, Violeen | Denied |
| 93-CV-0310 | Dewalt, Mary | 707.99 |
| 93-CV-0314 | Martinez, Magdalena | Dismissed |
| 93-CV-0320 | Springs, Sabrina | 1,234.10 |
| 93-CV-0322 | Taylor, George | Dismissed |
| 93-CV-0327 | Williams, Roseanna | Denied |
| 93-CV-0328 | Bibbs, Veronica | Denied |
| 93-CV-0329 | Dillard, Bobby | Dismissed |
| 93-CV-0334 | Meadows, Timothy | 3,000.00 |
| 93-CV-0337 | Yung, Raymond G. | 2,555.00 |
| 93-CV-0344 | Erwin, Trina | Denied |
| 93-CV-0349 | Jones, Wilma L. | 1,269.60 |
| 93-CV-0359 | Scruggs-Griffin, Rhonda & Harrison, Shirley | 2,603.50 |
| 93-CV-0363 | Tylka-Suleja, Janina & John | 3,000.00 |
| 93-CV-0369 | Williams, Pearlie Mae | 2,586.00 |

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|---|---|---|
| 93-CV-0371 | Zarco, Jose | 16,373.50 |
| 93-CV-0377 | Hunter-Skertich, Gayla | 395.23 |
| 93-CV-0389 | Ward, Robert | Denied |
| 93-CV-0394 | Carey, Jerry L. | Denied |
| 93-CV-0399 | Harding, Horace B. | 1,398.65 |
| 93-CV-0400 | Jackson, Ernestine | 2,543.00 |
| 93-CV-0401 | Jeffery, Barbara | Denied |
| 93-CV-0402 | Johnson, Dapheny D. | 1,889.94 |
| 93-cv-0404 | Lakhani, Sadruddin | 671.92 |
| 93-CV-0405 | Moore, Lorraine | 3,000.00 |
| 93-CV-0407 | Perez, Artemio | Dismissed |
| 93-CV-0409 | Rosemond, Henrietta | 660.00 |
| 93-CV-0414 | Wooten, Regina | 3,000.00 |
| 93-CV-0422 | Finnell, Norm & Wendt, Olga M. | 3,000.00 |
| 93-CV-0424 | Flores, Patricia | 2,885.00 |
| 93-CV-0429 | Greenwood, Scott T. | 1,269.88 |
| 93-CV-0430 | Harris, John | Denied |
| 93-cv-0434 | Miller, Irene | 2,677.30 |
| 93-cv-0436 | Morgan, Clarence | 900.00 |
| 93-CV-0439 | Seals, Michael | 2,843.85 |
| 93-CV-0447 | Brown, Donald | Dismissed |
| 93-cv-0450 | Jackson, Gloria | Denied |
| 93-cv-0452 | McKay, Charlie L. | 3,000.00 |
| 93-cv-0454 | Ray, Leroy | Dismissed |
| 93-cv-0455 | Samuels, Mark | Dismissed |
| 93-CV-0457 | Ward, Michael | Dismissed |
| 93-CV-0461 | Arellano, John | Denied |
| 93-CV-0464 | Burgess, Charles | Denied |
| 93-cv-0465 | Doss, Ethel | 1,185.00 |
| 93-CV-0466 | Garrett, Steven | Denied |
| 93-CV-0471 | Raak, David J. | 1,909.55 |
| 93-cv-0477 | Anast, Mary | Denied |
| 93-cv-0478 | Anast, Mary | Denied |
| 93-CV-0479 | Anast, Mary | Denied |
| 93-CV-0480 | Anast, Mary | Denied |
| 93-CV-0481 | Anast, Mary | Denied |
| 93-CV-0492 | Edwards, Lueella | 1,291.20 |
| 93-cv-0493 | Gammons, Phyllis | 987.39 |
| 93-cv-0495 | Johnson, Larry L., Jr. | Dismissed |
| 93-CV-0498 | Lopez, Salomon | 1,535.00 |
| 93-CV-0499 | Mivelaz, Audrey | 20.30 |

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|---|---|---|
| 93-CV-0500 | Nawracaj, Richard E. | 795.10 |
| 93-CV-0506 | Rodriquez, Israel | 343.20 |
| 93-CV-0509 | Simmons, Yolanda | 87.99 |
| 93-CV-0511 | Smith, Tommie L. | Denied |
| 93-CV-0519 | Molina, Isaias | Denied |
| 93-CV-0520 | Paz, Ramona A. | 3,609.41 |
| 93-CV-0522 | Pruitt, Dianne | 3,000.00 |
| 93-CV-0525 | Thomas, Charles | 446.00 |
| 93-CV-0528 | Chavez, Alejandro | 466.11 |
| 93-cv-0534 | McCann, Walter | Denied |
| 93-CV-0543 | Cervantes, Joe | Denied |
| 93-CV-0544 | Cruse, Len | Denied |
| 93-CV-0549 | Haymon, Mary | 3,000.00 |
| 93-CV-0550 | Isby, Hallase | Denied |
| 93-CV-0551 | Jones, Joanne | 3,000.00 |
| 93-CV-0553 | Members, Hollis | Dismissed |
| 93-CV-0558 | Sherley, Maxine | 3,000.00 |
| 93-CV-0559 | Thomas, Albert T., Jr. | 858.09 |
| 93-CV-0565 | McDavid, Willa | 3,000.00 |
| 93-CV-0573 | Bosby, Louise | 3,000.00 |
| 93-CV-0576 | Coleman, Calvin | 488.00 |
| 93-CV-0582 | Green, Frankie L. | 3,000.00 |
| 93-CV-0588 | McDay, Gladys H. | 3,000.00 |
| 93-CV-0589 | McLaughlin, Johnnie L. | 3,000.00 |
| 93-CV-0590 | Nava, Matthew R. | 25,000.00 |
| 93-CV-0592 | Peny, Ira Leo | 212.00 |
| 93-CV-0593 | Robinson, Coretta S. | Denied |
| 93-CV-0602 | Brown, Charlene Sanders | 3,000.00 |
| 93-CV-0606 | Garcia, Martin | Denied |
| 93-CV-0615 | Seals, Rolinda | Dismissed |
| 93-CV-0618 | Walters, Jeanette M. | Denied |
| 93-CV-0622 | Yates, John A. | 3,000.00 |
| 93-CV-0625 | Crowder, Kwame | 25,000.00 |
| 93-CV-0628 | Medygral, Joseph | Denied |
| 93-CV-0631 | Wardzala, Robert | Denied |
| 93-CV-0632 | Wright, Deirdre | Denied |
| 93-CV-0633 | Leverette, Lynnda J. | 3,000.00 |
| 93-CV-0634 | Corsino-Moore, Debbie | 435.00 |
| 93-CV-0637 | Gaines, Aaron | 3,234.72 |
| 93-CV-0638 | Guerrero, Elsa | 2,145.00 |
| 93-CV-0641 | Lemke, Alan R. | 3,000.00 |

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|---|---|---|
| 93-CV-0646 | Krok, Stefan | Denied |
| 93-CV-0649 | Turner, Elizabeth Ann | 3,000.00 |
| 93-CV-0654 | Donner, Michael Lee | 6,585.45 |
| 93-CV-0657 | Hernandez, Juliana | 3,030.00 |
| 93-CV-0661 | O'Connell, William F. | 1,710.36 |
| 93-CV-0664 | Robinson, Roger | 25,000.00 |
| 93-CV-0676 | Smith, Walter | 25,000.00 |
| 93-CV-0680 | Dillon, Gwendolyn | 1,270.00 |
| 93-CV-0681 | Franklin, Lillian | 2,595.30 |
| 93-CV-0688 | Overton, Jessie | 3,000.00 |
| 93-CV-0690 | Vaglienty, Kathryn S. | 296.60 |
| 93-CV-0694 | Brown, Emma L. | 25,000.00 |
| 93-CV-0699 | Hardy, Sylvia | 3,000.00 |
| 93-CV-0705 | Price, Ronald | 5,070.43 |
| 93-CV-0709 | Yancy, Elvira | 3,000.00 |
| 93-CV-0711 | Archie, Desiree | 1,000.14 |
| 93-CV-0713 | Benedetto, Robert J. | 2,919.01 |
| 93-CV-0714 | Brennan, Carol | Denied |
| 93-CV-0717 | Cohoon, Betty A. | Denied |
| 93-CV-0728 | Johnson-Muldrow, Lenene | Denied |
| 93-CV-0729 | Johnson, Sally M. | Denied |
| 93-CV-0733 | Naylor, Herbert L. | Dismissed |
| 93-CV-0739 | Rojas, Felipe | 20,746.18 |
| 93-CV-0740 | Rome, Mome | Denied |
| 93-CV-0745 | Watson, James | Denied |
| 93-CV-0748 | *Arroyo,* Francisco | 1,837.00 |
| 93-CV-0750 | Bosell, Alberta E. | Denied |
| 93-CV-0752 | Coleman, Tony Terrell | Denied |
| 93-CV-0756 | Jefferson, John | 11,948.32 |
| 93-CV-0757 | Mason, Isaiah | 14,504.00 |
| 93-CV-0761 | Starks, Louise | 2,766.00 |
| 93-CV-0766 | Jackson, Haidest | 1,564.50 |
| 93-CV-0767 | Rhodes, Victor J. | 3,000.00 |
| 93-CV-0778 | Hardy, Linda J. | 25,000.00 |
| 93-CV-0793 | Husband, Timothy W. | Denied |
| 93-CV-0796 | Lancaster, Lelia | 2,982.25 |
| 93-CV-0798 | Perez, Gloria | 1,774.00 |
| 93-CV-0805 | Coleman, Bryan Scott | 1,614.30 |
| 93-CV-0809 | Heard, Jerome W. | 273.96 |
| 93-CV-0815 | Winston, Adrianne | 2,068.77 |
| 93-CV-0821 | Dugan, Christopher Michael | 934.65 |

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|---|---|---|
| 93-CV-0825 | Harris, Verdell V. | 2,768.00 |
| 93-CV-0838 | Dwyer, Daniel | Denied |
| 93-CV-0843 | Hewitt, Kenneth | Denied |
| 93-CV-0845 | Martin, Harry V. | 1,654.20 |
| 93-CV-0850 | Shockey, Trudy Lee | 3,050.00 |
| 93-CV-0857 | Willis, Rosie M. | 2,350.00 |
| 93-CV-0861 | Dunn, Jerome | 11,025.62 |
| 93-CV-0864 | Heard, Joyce | 3,000.00 |
| 93-CV-0866 | Jordan, Emily & Boyd, Jacqueline | 924.50 |
| 93-CV-0873 | Stanford, Adrienne D. | 3,000.00 |
| 93-CV-0874 | Szczepanek, John L. | 3,000.00 |
| 93-CV-0875 | Tatum, Notheria J. | 3,000.00 |
| 93-CV-0879 | Walls, Linda | 4,234.00 |
| 93-CV-0880 | Walls, Linda | 2,245.06 |
| 93-CV-0881 | Walls, Linda | 2,245.06 |
| 93-CV-0882 | Walls, Linda | 2,245.06 |
| 93-CV-0883 | Walls, Linda | 2,245.06 |
| 93-CV-0890 | Guzman, Mark Anthony | Denied |
| 93-CV-0897 | Topps, Sandra M. | 3,585.00 |
| **93-CV-0902** | **Augusta,** James | Denied |
| 93-CV-0905 | Franklin, Hattie & Callaway, Herman | 2,532.00 |
| 93-CV-0906 | Gonzalez, Bienvenido | Denied |
| 93-CV-0908 | Harris, Shirley M. | 2,512.50 |
| 93-CV-0909 | Holloway, Marcia | 2,814.10 |
| 93-CV-0915 | Nelson, Augusta | 2,770.80 |
| 93-CV-0918 | Rosa, Misorquidia | 1,393.00 |
| 93-CV-0919 | Roszczewski, Bonnie | 187.45 |
| 93-CV-0926 | Watkins, Larry | 18,125.30 |
| 93-CV-0928 | Williams, Willie Lee | 3,000.00 |
| 93-CV-0936 | Ezell, Josephine | 3,000.00 |
| 93-CV-0939 | Gerring-Kimmons, Katherine & Lake, Marilyn M. | 1,795.00 |
| 93-CV-0942 | Landon, Susie L. | 25,000.00 |
| 93-CV-0949 | Poveda, Jorge | Denied |
| 93-cv-0950 | Pribble, Stacey A. | 11,772.28 |
| 93-CV-0952 | Ross, Wayne | 3,000.00 |
| 93-CV-0953 | Rutledge, Diane Applegate | Denied |
| 93-CV-0956 | Shad, Abdul Majeed | 25,000.00 |
| 93-CV-0963 | Bennish, Earle Richard | Denied |
| 93-CV-0964 | Bogard, Terry W. | Denied |
| 93-CV-0965 | Brooks, Geraldine | 3,000.00 |

| | | |
|---|---|---|
| 93-CV-0967 | Contreras, Carmen | 3,000.00 |
| 93-CV-0978 | Thomas, Cynthia D. | Denied |
| 93-CV-0985 | Fenderson, Michael | Denied |
| 93-CV-0987 | Haydee, Navarro | 2,325.00 |
| 93-CV-0992 | Moss, James E. | Denied |
| 93-CV-0993 | Nichols, Judy | Denied |
| 93-CV-0997 | Saez, Annette | 2,080.00 |
| 93-CV-0998 | Smith, Horace C. | 11,288.98 |
| 93-CV-0999 | Zettergren, Charles W. | 3,000.00 |
| 93-CV-1003 | Brimmer, Leonia | 3,000.00 |
| 93-CV-1015 | Johnson, Clyde | 2,235.00 |
| 93-CV-1016 | King, Inez | Denied |
| 93-CV-1027 | Atterberry, Gwenetta | 351.00 |
| 93-CV-1030 | Coleman, Sheila | 2,014.00 |
| 93-CV-1031 | Davis, Leon | 14,764.38 |
| 93-CV-1036 | Johnson, Pamela | 3,000.00 |
| 93-CV-1039 | Mays, Thelma Lee | 3,000.00 |
| 93-CV-1046 | Armand, Artemise L. | Dismissed |
| 93-CV-1054 | Garnett, Herbert | Denied |
| 93-CV-1068 | O'Connell, Christopher Sean | 294.50 |
| 93-CV-1079 | Jackson, Dorothy | Denied |
| 93-CV-1087 | Brown, Linda R. | Dismissed |
| 93-CV-1088 | Chamberlain, Vanita | 3,000.00 |
| 93-CV-1102 | Hudson, Sylvia | 3,000.00 |
| 93-CV-1108 | Osorio, Linda Sue | 1,000.00 |
| 93-CV-1110 | Pettenger, Steven E. | Denied |
| 93-CV-1111 | Rice, Everett P. | 2,486.00 |
| 93-CV-1114 | Thomas, Anthony W. | 3,000.00 |
| 93-CV-1122 | Castro, Carmen | 1,515.00 |
| 93-CV-1124 | Chun, Kum Cha | Denied |
| 93-CV-1126 | Davis, Dorothy M. | Reconsidered Denial |
| 93-CV-1134 | Redmond, Gary | Denied |
| 93-CV-1140 | Bell, Frank J. | 271.80 |
| 93-CV-1142 | Blissit, Junita | Denied |
| 93-CV-1143 | Brown, Maurice | Denied |
| 93-CV-1149 | Gartley, Mannix L. | 12,917.50 |
| 93-CV-1160 | Page, Rita A. | Denied |
| 93-CV-1176 | Gierich, Diane | Denied |
| 93-CV-1190 | Scholefield, Pamela Jane | Denied |
| 93-CV-1192 | Yarn, Willie L. | 3,000.00 |
| 93-CV-1208 | Lowe, John W., Jr. | 3,000.00 |

| | | |
|---|---|---|
| 93-CV-1209 | Perry, Linda M. | Denied |
| 93-CV-1214 | Anaya, Luis | 3,000.00 |
| 93-CV-1221 | Collins, Renee & Auralia | 3,000.00 |
| 93-CV-1230 | Carate, Cesar | Denied |
| 93-CV-1233 | Hardaman, Margie J. | 1,841.59 |
| 93-CV-1247 | Pecsenye, Victoria M. | Denied |
| 93-CV-1254 | Stanek, **Ruth** | Denied |
| 93-CV-1264 | White, Ora L. | Denied |
| 93-CV-1267 | Wiedman, Harold Jack | 2,379.40 |
| 93-CV-1269 | Baker, Mary Ann | Denied |
| 93-CV-1273 | Boyd, Jimmie H. | Denied |
| 93-CV-1281 | Mastrino, James M., Jr. | Denied |
| 93-CV-1283 | Rafe, Perry, Jr. | 2,014.00 |
| 93-CV-1287 | Woods, Aaron | 10,229.48 |
| 93-CV-1290 | Brown, Robert | Denied |
| 93-CV-1292 | Foster, Elnora | 2,645.00 |
| 93-CV-1301 | McNair, Eddie Mae | Denied |
| 93-CV-1302 | Miranda, Frances | 2,120.22 |
| 93-CV-1305 | Price, Madeline | 2,111.75 |
| 93-CV-1307 | **Sims,** Essie Mae | Denied |
| 93-CV-1308 | Stout, Josephine B. | 2,194.00 |
| 93-CV-1309 | Thomas, Susie | 811.60 |
| 93-CV-1310 | Thomas, Susie | Denied |
| 93-CV-1317 | Borum, Valerie | Denied |
| 93-CV-1320 | Collins, Roosevelt | 23,946.06 |
| 93-CV-1324 | Glass, Carolyn | 1,280.00 |
| 93-CV-1326 | Hardin, Derry L. | 1,831.15 |
| 93-CV-1330 | Lindsey, Sallie Sykes | 3,000.00 |
| 93-CV-1352 | Ayers, Lillie M. | Denied |
| 93-CV-1362 | McCaskill, Lori | 3,000.00 |
| 93-CV-1363 | Peterson, Jerry | 1,165.70 |
| 93-CV-1370 | Canet, Jesse **R.** | 3,000.00 |
| 93-CV-1374 | Fuzzell, Curt **S.** | Denied |
| 93-CV-1385 | Millender, Carolyn | 3,000.00 |
| 93-CV-1389 | Strong, Charles E., **Sr.** | Denied |
| 93-CV-1408 | Murphy, Ellen C. | 2,295.60 |
| 93-CV-1411 | Polusky, Renee M. | 180.78 |
| 93-CV-1417 | Yarber, Trevania | 2,114.00 |
| 93-CV-1421 | Anderson, Della | 2,297.80 |
| 93-CV-1427 | Davis, Irma | 3,000.00 |
| 93-CV-1432 | Jackson, Grace | Denied |

| | | |
|---|---|---|
| 93-CV-1444 | Romious, Arvena R. & Charita D. | 216.43 |
| 93-CV-1449 | Adams, Sonya A. | Denied |
| 93-CV-1450 | Coy, Claudia | Denied |
| 93-CV-1451 | Floyd, Maraguerite Lee | Denied |
| 93-CV-1463 | Sanchez, Leon | 8,650.00 |
| 93-CV-1468 | Vales, Fred, Jr. | Denied |
| 93-CV-1480 | Mordes, Victor A. | 1,425.00 |
| 93-CV-1498 | Reynolds, Nora | Denied |
| 93-CV-1499 | Reynolds, Nora | Denied |
| 93-CV-1502 | Whitted, Michael | 6,970.00 |
| 93-CV-1503 | Bradley, Addie B | Denied |
| 93-CV-1512 | Lake, Michael L. | 3,000.00 |
| 93-CV-1513 | Lamb, Priscilla A. | Denied |
| 93-CV-1515 | Lenoir, Ora L. | 3,000.00 |
| 93-CV-1520 | Gardner, Willie J. | Denied |
| 93-CV-1522 | Allen, Vasti R. | 3,000.00 |
| 93-CV-1544 | Silver, Margaret Ann | Dismissed |
| 93-CV-1545 | Wilson, Mary Frances | 1,761.00 |
| 93-CV-1557 | Morse, Sandra J. | 889.00 |
| 93-CV-1564 | Waldock, Stephen | Denied |
| 93-CV-1572 | Bohannon, Catherine | 1,056.50 |
| 93-CV-1577 | Fossett, Cindy & Martha Hellen | 3,000.00 |
| 93-CV-1580 | Mercado, William | 1,123.25 |
| 93-CV-1591 | Dixon, Donissa | 857.60 |
| 93-CV-1593 | House, Linda | 3,000.00 |
| 93-CV-1595 | Parrett, Gary | Denied |
| 93-CV-1597 | Smith, Karney | 12,041.85 |
| 93-CV-1600 | Wallace, Sandra M. | Denied |
| 93-CV-1615 | Juarez, Salvador | Denied |
| 93-CV-1618 | Penn, Willie L., Sr. | 3,000.00 |
| 93-CV-1627 | Edwards, Susie | Denied |
| 93-CV-1630 | Colon, Edward | Denied |
| 93-CV-1632 | Gilmore, Seth P. | 15,330.82 |
| 93-CV-1642 | King, Marie | 3,000.00 |
| 93-CV-1643 | Kracht, Douglas J. & David P. | 1,996.42 |
| 93-CV-1657 | Garza, Amarilys | 3,000.00 |
| 93-CV-1659 | Lang, Helen | 3,000.00 |
| 93-CV-1660 | Loeb, Mary E. | 2,885.99 |
| 93-CV-1668 | Rogers, Annie E. | 68.95 |
| 93-CV-1682 | Windham, Clara J. | Denied |
| 93-CV-1688 | Backstrom, Christopher | Denied |

| | | |
|---|---|---|
| 93-CV-1710 | McCarter, Sammie & Ora L. | Denied |
| 93-CV-1717 | Williams, Alberta | 2,388.16 |
| 93-CV-1722 | Paniagua, Jose & Teresa | Denied |
| 93-CV-1730 | Thomas, Vivian D. | 3,000.00 |
| 93-CV-1747 | Patterson, Dorsey, Jr. | Denied |
| 93-CV-1754 | Debeny, Edna Clark | Denied |
| 93-CV-1761 | Coulter, Dudley | 3,000.00 |
| 93-CV-1765 | Nelson, Mattie M. | 1,211.75 |
| 93-CV-1766 | Nelson, Mattie M. | 1,211.75 |
| 93-CV-1767 | Nelson, Mattie M. | 1,211.75 |
| 93-CV-1770 | Smith, Jacqueline | 466.01 |
| 93-CV-1771 | Finfer, Paul | 511.25 |
| 93-CV-1788 | Parker, Jimmy | Denied |
| 93-CV-1792 | Shepard, Carol Ann | Denied |
| 93-CV-1794 | Tate, Yvonne | Denied |
| 93-CV-1799 | Mims, Virginia | Denied |
| 93-CV-1812 | Simmons-Mabodu, Edna Ray | Denied |
| 93-CV-1813 | Thompson, Teola | 2,733.20 |
| 93-CV-1828 | Mabin, Louis | **404.50** |
| 93-CV-1829 | Mathews, Andre Lamont | Denied |
| 93-CV-1834 | Tigue, Sallie M. | 2,435.00 |
| 93-CV-1835 | Truesdell, Sandra D. | 3,000.00 |
| 93-CV-1841 | Hill, Betty | 3,000.00 |
| 93-CV-1845 | Saitlin, Ben | 3,000.00 |
| 93-CV-1847 | Smith, Bertha M. | 3,000.00 |
| 93-CV-1848 | Smith, Gregory | 2,888.05 |
| 93-CV-1859 | Jordan, Eula | 3,000.00 |
| 93-CV-1873 | Atkins, Frank, Jr. | 3,180.95 |
| 93-CV-1877 | Garza, Carolyn | 3,000.00 |
| 93-CV-1885 | Li, Kun | Denied |
| 93-CV-1888 | Lowry, Terrell, Sr. | 3,000.00 |
| 93-CV-1890 | Meekins-Robinson, Carmen A. | 3,000.00 |
| 93-CV-1891 | Meneweather, Ricky | Denied |
| 93-CV-1900 | Washington, Darryl | 2,036.85 |
| 93-CV-1905 | Addante, Michael J. | Denied |
| 93-CV-1912 | Buttimer, Andrew W. | 2,036.00 |
| 93-CV-1913 | Carter, Irene | Denied |
| 93-CV-1916 | Gilloway, John J. | Denied |
| 93-CV-1922 | McCamury, Earl | Denied |
| 93-CV-1925 | McClendon, Raymond | Denied |
| 93-CV-1931 | Repass, Eddie | 3,000.00 |

| | | |
|---|---|---|
| 93-CV-1991 | Martin, Terence D. | Denied |
| 93-CV-1993 | Rivera, Luz E. | 2,745.00 |
| 93-CV-2010 | Price, Monique | Denied |
| 93-CV-2013 | Rogers, Gregory | Denied |
| 93-CV-2027 | Dupont, Josephine | 2,300.00 |
| 93-CV-2035 | Lumpkins, Silvia J. | 3,000.00 |
| 93-CV-2042 | Tollison, Richard W., III | 2,806.30 |
| 93-CV-2043 | Torres, Alicia | 3,000.00 |
| 93-CV-2048 | Sorrell, Kandye Renee | Denied |
| 93-CV-2052 | Caballero, Arthur | Denied |
| 93-CV-2075 | Mohead, Annie | 2,870.00 |
| 93-CV-2095 | Belton, Sarah J. | Denied |
| 93-CV-2097 | Darwin-Floore, Sandra | 3,000.00 |
| 93-CV-2100 | Morris, Mildred | 3,000.00 |
| 93-CV-2129 | Knox, Darrio | 2,945.82 |
| 93-CV-2130 | Lane, Reenay | 25,000.00 |
| 93-CV-2131 | Lee, Lizzie | 3,000.00 |
| 93-CV-2143 | Winder, Janice | 3,000.00 |
| 93-CV-2151 | Gage, Joanie | Denied |
| 93-CV-2158 | Jackson, Sabrina | 2,595.00 |
| 93-CV-2160 | Morro, Mary Jean | 2,999.30 |
| 93-CV-2162 | Nettles, Dorothy | 2,543.75 |
| 93-CV-2180 | Bester, Morine Epting & Epting, Knobel | 2,275.00 |
| 93-CV-2209 | Nix, Mary L. | 3,000.00 |
| 93-CV-2243 | Bousheh, Rita | Denied |
| 93-CV-2248 | Rodman, Edward | 3,000.00 |
| 93-CV-2264 | Mitchell, Lara K. | Denied |
| 93-CV-2274 | Thomas, Angela | 692.35 |
| 93-CV-2278 | Yarber, Linda R. | 1,343.00 |
| 93-CV-2355 | Lynch, Matthew | 2,749.60 |
| 93-CV-2366 | Adams, Betty R. | Denied |
| 93-CV-2374 | Hughes, Virginia | Denied |
| 93-CV-2408 | Baber, Eddie | Denied |
| 93-CV-2410 | Burks, Verletta C. | 2,897.61 |
| 93-CV-2468 | Tabor, Ada M. | 3,000.00 |
| 93-CV-2486 | Johnson, Becky J. | 3,000.00 |
| 93-CV-2491 | Thomas, Thersia | 2,917.85 |
| 93-CV-2498 | Carlton, Jeffiey Alan | 9,486.60 |
| 93-CV-2527 | White, David | Denied |
| 93-cv-2528 | Wicks, Vanetta K. | Denied |
| 93-CV-2542 | Mosley, Betty | Denied |

| | | |
|---|---|---|
| **93-CV-2551** | Fuller, Regina | Denied |
| **93-CV-2575** | Duncan, Murphy | Denied |
| **93-CV-2584** | Montano, Pascual, Sr. | **3,000.00** |
| **93-CV-2649** | Bartlett, Patricia | Denied |
| **93-CV-2653** | Rubio, Melesia | **2,088.17** |
| **93-CV-2656** | Ellison, Caroline | **2,444.00** |
| **93-CV-2661** | Pruitt, Helen | Denied |
| **93-CV-2662** | Stubenfield, James | Denied |
| **93-CV-2682** | Davis, Freddie | **1,812.25** |
| **93-CV-2726** | McGee, Jessie Mae | Denied |
| **93-CV-2739** | Johnson, Larcenia | Denied |
| **93-CV-2772** | Payton, Constance | Denied |
| **93-CV-2799** | Colbert, Mary | Denied |
| **93-CV-2818** | Pirela, Edwin M. | Denied |
| **93-CV-2824** | Brooks, Rutha Mae | Denied |
| **93-CV-2844** | Robinson, Farroll | Denied |
| **93-CV-2874** | Bartlang, Christina | Denied |
| **93-CV-1883** | Lopez, Gabriel | Denied |
| **93-CV-2929** | Alston, Bobbie | Denied |
| **93-CV-2954** | Smith, Willa M. | **387.59** |
| **93-CV-2961** | Cobb, Jacqueline | Denied |
| **93-CV-2983** | Bazan, Jaime | Denied |
| **93-CV-2988** | Hunter, **Jacob,** Jr. | Denied |
| **93-CV-2998** | Villalobos, Liova Maria | Denied |
| **93-CV-3024** | Phillips, Larthel | Denied |
| **93-CV-3034** | Boyd, Barbara J. | Denied |
| **93-CV-3061** | Chatman, Albert | Denied |

# CRIME VICTIMS COMPENSATION ACT
# PETITIONS—DENIED

## FY 1993

| | | |
|---|---|---|
| 93-CV-2310 | Carter, Michael A. | Denied |
| 93-CV-2328 | Bulie, Michele | Denied |
| 93-CV-2343 | Moore, Rosemary | Dismissed |
| 93-CV-2427 | Williams, Sid | Denied |
| 93-CV-2496 | Rosas, Salvador C. | Denied |
| 93-cv-2509 | Martinez, Natalia Domingo | Denied |
| 93-cv-2552 | Grandberry, Craig J. | Denied |
| 93-CV-2553 | Herrera, Martin | Denied |
| 93-CV-2555 | Woods, Ronnie | Dismissed |
| 93-CV-2797 | Joyce, Douglas D. | Denied |
| 93-CV-2806 | Davis, Odia | Denied |
| 93-CV-2866 | Kelsey, Lee A., Jr. | Denied |
| 93-CV-3200 | Jackson, Bridgette | Denied |

(UNASSIGNED—Alphabetical Order)

Abair, Cynthia S.
Adams, Faye
(Adams, Nancy—victim)
Adams, Karen
(Adams, Kenneth—victim)
Andrews, Nita
(Andrews, Bernard—victim)
Avisado, Catherine M a y
Bala, Clemente, Jr.
(Wilkinson, Gilda Bala—victim)
Brown, Charles
(Brown, Robert C.—victim)
Buelow, Paul A.
(Buelow, Timothy S.—victim)
Burks, Chantay M.
(Burks, William D.—victim)
Butler, Virgil
Byrd, Joyce Faye
Castillo, Milagros
(Castillo, Cealia—victim)
Castillo, Milagros
(Rivera, Michelle—victim)
Castro, Innocencio
Crowley, Perry
Dean, Mary
Duran, Martha
Fell, Joy
Gant, Maxine E.
(Gant, Ricardo—victim)
Goodloe, Josephine K.
(Goodloe, Carmen Regina—victim)
Grant, Albert James
Gresham, Bernie, III
Guerreo, Eloisa
(Ortega, Agustin—victim)

Haley, Larry Eugene
Handley, Lonnie M.
(Handley, John B.—victim)
Hanover, Vlasta
Haywood, Reginald
Heal, Tina Louise
Hill, Beverly D.
Hollenbach, Jennifer N.
Hollenbach, Jennifer N.
Horton, **Susan** Marie
(Solano, Jeanette—victim)
Hughes, Calvin
Hyler, Linda F.
Hyman, Leslie Jay (Petition A)
Hyman, Leslie Jay (Petition B)
Janos, Cindy
Johns, Gaileen D.
Johnson, Earl L.
Jones, Graling
Jowers, Milton Eric
Kelly, Charles
(Kelly, Victor—victim)
Kotner, Vivian **B.**
Kratochvil, Frank J.
Lockhart, Mary
(Lockhart, Henry—victim)
Loza, Genaro, Jr.
Lubawy, Martin
McCoy, Barbara J.
(McCoy, Juanita—victim)
Martinez, Emilio
Meeks, John **O.**
Meier, Wendy Cay
Mieczkowski, Franciszek
Mitchell, Elizabeth
(Mitchell, Everett—victim)
Mooningham, Patricia M.
Morales, Edwin
Morales, Rosa
Morales, Rosa
(Morales, Anselmo—victim)
Morales, Rosa
(Morales, Nadie—victim)
Morales, Rosa
(Morales, Sadie—victim)
Murray, Shirl **I.**
(Hayes, Jerry Allen—victim)
Nelson, Hattie
(Saunders, Bernice—victim)
Newman, Lindberg L.
Nimmels, Robert & Thelma
(Lee, Robert A.—victim)
Reed, Linda
(Steen, Kristille R.—victim)
Richardson, Bonnie M.
Richardson, Nonveitta
Richlinski, Robert A.
Roberts, Carrie
(Roberts, Charles D.—victim)
Sanfilie, Pamela Ann
(Sanfilie, Patrice Marie—victim)
Santoyo, Mark A.
Shelton, Linda
(Shelton, Angela Renee—victim)
Sibley, Helen
(Sibley, Andray—victim)
Smith, Gloria Simmons
(Simmons, Jeffery D.—victim)
Smith-Gorham, Theresa D.
Steinbrecher, Richard T.
(Steinbrecher, Richard Clayton—victim)

Stephens, Bridget Denise
Sullivan, Eileen Anne
Thompson, Larry C., Jr.
Thompson, Wesley, Jr.
Tillman, Derrick
Tulios, Marianti
Walker, Narcissus
(Addison, Lottie Mae—victim)
Webb, Marilyn J.
(Webb, Robert John—victim)
Whitlock, Lisa
Withers, James
Wolff-Petrovich, Carol
Zarco, Olivia
(Zarco, Jose—victim)
Zepeda, Alejandro

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PRACTICE AND PROCEDURE



PRISONERS AND INMATES—See also NEGLIGENCE